STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PAWTUCKET WATER SUPPLY BOARD RATE APPLICATION	))	DOCKET NO. 3674

POST-HEARING BRIEF OF THE DIVISION OF PUBLIC UTILITIES AND CARRIERS

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I. INTRODUCTION

The Pawtucket Water Supply Board ("PWSB") filed its rate application with the Public Utilities Commission ("Commission") in April, 2005. Subsequent to the filing, the Division of Public Utilities and Carriers ("Division") retained Andrea C. Crane, a member of the Columbia Group, and Thomas S. Catlin, a principal of Exeter Associates, to review the PWSB's revenue requirements and rate design issues, respectively. After conducting an exhaustive investigation, the Division filed the Direct Testimony of Ms. Crane and Mr. Catlin and the Surrebuttal Testimony of Ms. Crane with the Commission.

The PWSB and the Division reached a general consensus regarding a number of the PWSB's accounts. More specifically, the PWSB accepted the Division's position regarding Rate Case and Regulatory Commission Expenses (ACC-10), Inflation (ACC-11), Security Costs (ACC-12) and Property Insurance (ACC-13). The Division accepted the PWSB's position regarding Fees and Permits (ACC-14).[1]

Despite the parties' agreement in these areas, the Division and the PWSB remain far apart on many other issues. Overall, the PWSB continues to seek a 19.29% increase over present rate revenue. The Division recommends a 7.36% rate increase.[2] The difference between the parties' positions relates to the following areas. On the revenue side, the Division made adjustments in the areas of Residential and Small Commercial Consumption, Customer Growth, Wholesale Revenues, Miscellaneous Revenue and

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[1] On September 16, 2005, the PWSB withdrew without prejudice that portion of its rate application in which the utility sought to impose a surcharge on its Cumberland ratepayers. The surcharge would have required the PWSB's Cumberland customers to pay the tangible personal property tax that the Town of Cumberland annually imposes on the PWSB's distribution pipes located in Cumberland.

[2] Updated schedules to the Surrebuttal Testimony of Andrea C. Crane are attached to this brief.

State Surcharge Revenue. The Division also made adjustments to the following expense accounts: Incremental Volumetric Expenses, Vacant Positions, Temporary Labor Costs, Operating Reserve Fund, Water Treatment Plant ("WTP") Reserve and Operating Income Allowance.

The Commission heard the merits of this matter on September 13, 14 and 16, 2005. Testimony adduced at hearing, along with the application of the appropriate legal and regulatory principles and policy, require findings that are in accord with the position presented by the Division at hearing. The Division respectfully requests that the Commission grant the PWSB's rate application on such terms and conditions as are consistent with the schedules attached to this memorandum and with the Division's position presented at hearing.

II. THE DISPUTED ACCOUNTS

A. REVENUE ADJUSTMENTS

1. Residential and Small Commercial Consumption (ACC-2)

In countless numbers of rate cases, the Commission has repeatedly adopted, and consistently applied, a multi-year average methodology for determining a utility's projected operating revenues. E.g., In Re: City of Woonsocket Water Department Application to Change Rate Schedules, Docket No. 3626, Order No. 18307 (2005) (three-year average); In Re: Kent County Water Authority Application to Change Rate Schedule, Docket 3660, Order 18316 (2005) (three-year average); Pawtucket Water Supply Board General Rate Filing, Docket No. 3497, Order No. 17574 (2003) (five-year average).

Through its decisions, the Commission has provided the public and the parties with its thought process regarding the adoption of a multi-year average methodology time and time again. Nonetheless, the PWSB stubbornly persists in requesting the Commission to reject the application of this methodology and base its projected sales on test year sales alone. The Commission's rationale for adopting the multi-year average method, thus, bears repetition here. In In Re: Kent County Water Authority Abbreviated Application to Change Rates, Docket No. 3660, Order No. 18316 at 13, the Commission reasoned that "historically the use of a multi-year averaging method to set rates ***produces a smaller variation in actual revenues*** than simply utilizing the test year water sales to set rates" (emphasis added).[3] KCWA's water sales, however, the Commission observed, "fluctuate upward and downward;" therefore, "the Division's three-year averaging method is clearly [the] most appropriate..." method. Id.

Order No. 18316 was issued virtually simultaneously with Order No. 18307 in Docket No. 3626. In the latter docket, the City of Woonsocket, Water Department ("WWD") based the consumption portion of its claim on climatological data that purported to show the utility had suffered a persistent downward trend in consumption over time. Id. at 24. According to the Division, the "persistent downward trend" was nothing more than an aberration resulting from abnormally inclement weather in the test year. WWD's use of the test year to project consumption, therefore, provided an abnormally low projection of residential sales. Id. at 26. In its post-hearing brief, the Division further observed that use of the "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." Id.

[3] In dictum, the Commission further observed that if a water utility could demonstrate a clear downward trend in water sales, the Commission *might* depart from the typical multi-year averaging approach in order to better estimate future sales (emphasis added).

In Order No. 18307, the Commission, again, flatly rejected the adoption of reliance on test year data to project consumption. The Commission observed that WWD had "used only the test year consumption of CY 2003, a wet cool year, as the projected Rate Year usage" while "the Division recommended using a three year average as more representative of a 'usual' year." Id. at 29. The Commission proceeded to hold: "The Commission agrees with using the most recent three year data of FY 2002, 2003 and 2004 . . . This is essentially the same as the Division's adjustment in its post-hearing brief." Id. at 29.

The PWSB's pro forma operating revenue claim in the pending docket represents a thinly veiled attempt to yet again obtain Commission adoption of a flawed and rejected methodology. Like WWD in Docket 3626, the PWSB bases its claim on test year sales (FY ending June 30, 2004) that "were lower than sales in any of the past eight years." (The months of June through August of 2003 were ranked 12th wettest summer on record in 111 years.) Direct Testimony of Andrea C. Crane at 10. The PWSB's methodology, moreover, does not include sales for the months of July and August of 2005, which were extremely hot months. Although the Division does not possess adequate billing information regarding the PWSB's actual 2005 summer usage, one would expect that sales for the second half of FY 2005 will be strong, based on July and August weather conditions.

The Division avoids both of these errors by using a multi-year average methodology, and updating the five-year period to include consumption information through June 30, 2005—the end of the 2005 fiscal year. See ACC-2 attached to this brief. Just as importantly, actual residential and small commercial sales experienced by the

PWSB over the past several years supports the Division's position.[4] Those sales and the 3, 5 and 8 year averages are as follows:

FY 2004	3,068,335 HCF
FY 2003	3,399,237
FY 2002	3,156,077
FY 2001	3,392,896
FY 2000	3,392,896
FY 1999	3,249,056
FY 1998	3,360,820
FY 1997	3,837,774
3-Year Ave.	**3,207,883**
5-Year Ave.	**3,247,974**
8-Year Ave.	**3,335,940**

One can see from this set of data that the test year had total sales that were lower than sales in any of the past eight years. As Ms. Crane stated in her Direct Testimony, "this is not surprising" since the summer of 2003 (which was billed in fiscal year 2004) "was the 12th wettest summer on record over the past 111 years." Direct Testimony of Andrea C. Crane at 10. The PWSB's operating revenue claim, here, like that of WWD, is based on climatological circumstances that resulted in abnormally depressed sales in the test year.

[4] In the pending docket, the Division first attempted to develop a normalized consumption per customer. Unfortunately, the PWSB possessed relevant information regarding historic usage and customer counts by customer class in only four of the last ten years. The Division, therefore, was required to rely on utilizing total sales consumption over a multi-year period, instead of consumption per customer. Direct Testimony of Andrea C. Crane at 8.

The Division urges the Commission to utilize a five-year average to normalize the PWSB's sales in this docket.[5] The five-year period is consistent with the methodology that the Commission applied in Docket No. 3497 and captures a host of factors, other than weather, that can impact water sales. For example, a five-year period can "capture changes in technology that have occurred in plumbing fixtures, demographics and even economic factors." Surrebuttal Testimony of Andrea C. Crane at 5. A multi-year period, moreover, is in conformity with the Commission's past practice and rules (see Rule 2.5(c)), and the practice of most, if not all, other public utility commissions when they normalize sales of utilities in the water, gas and electric industries.

Finally, in contending (or assuming) that sales in any one-year are "normal," the PWSB completely ignores the fact that one-year's worth of sales, virtually by definition, cannot be "normal," and therefore, is *per se* "inconsistent with sound regulatory practice." Surrebuttal Testimony of Andrea C. Crane at 4. The Commission, therefore, must reject the PWSB's most recent attempt to persuade the agency to abandon its past practice and precedent.

2. Customer Growth (ACC-3)

The PWSB's residential and small commercial customers have increased by approximately 72 customers per year over the past seven years. See Division Data Request 2-26. Basing "pro forma revenues on the number of customers at June 30, 2004," thus, is likely to understate the actual average number of customers in the rate year. Direct Testimony of Andrea C. Crane at 13. In order to correct this problem, the Division

[5] The Division does not object if the Commission believes a three-year period is more representative of the PWSB's normalized sales, and therefore, uses a three-year period for residential and small commercial consumption.

recommends that the Commission adopt a revenue adjustment to reflect an additional 144 residential customers. This figure reflects 24 months of growth from June 30, 2004 to June 30, 2006 at 72 customers per year.

The PWSB does not contest the slight yet very real growth occurring in its residential and small commercial customer bases. Rather, without producing any concrete evidence to support its contention, the PWSB opines that the "new" customers associated with its growth simply do not translate into an increase in sales. As argued above, the PWSB's sales can be impacted by a variety of factors, including abnormally inclement weather. Thus, the PWSB's contention that the small commercial and residential growth experienced by the utility should not result in an upward adjustment in revenues does not have any merit. See In Re: Kent County Water Authority Application to Change Rate Schedule, Docket No. 3660, Order No. 18316 at 13 (where the Commission adopted the same methodology employed by Division to increase KCWA's sales to account for the addition of 171 new residential customers).

3. ***Wholesale Sales Revenue (ACC-4)***

The difference between the PWSB and the Division regarding Wholesale Sales Revenue, again, arises from a difference of methodological approach. As with its residential and small commercial sales, the PWSB insists that the test year wholesale sales data will best reflect sales in the rate year. By contrast, the Division recommends that the Commission base the PWSB's projected wholesale sales on the following five-year average wholesale sales data[6], as updated in ACC-4 annexed to this brief:

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[6] Again, the Division does not object if the Commission utilizes a three-year average for wholesale sales as long as the period that is utilized is consistent with the number of years used for residential and small commercial consumption.

FY 2004	548,162 HCF
FY 2003	545,224
FY 2002	845,377
FY 2001	741,077
FY 2000	443,893
FY 1999	668,024
FY 1998	462,074
FY 1997	676,117
3-Year Ave.	**646,254**
5-Year Ave.	**624,747**
8-Year Ave.	**616,243**

The problems associated with the PWSB's approach have been discussed at length in connection with its residential and small commercial consumption and do not require repetition here. What does require reemphasis is that "there are a host of factors" that influence wholesale sales, and "these factors are taken into account through the use of a multi-year average." Surrebuttal Testimony of Andrea C. Crane at 5. Moreover, as in the case of retail consumption, the Commission has applied the multi-year average approach to determine projected wholesale sales in countless prior dockets. E.g Pawtucket Water Supply Board General Rate Filing, Docket No. 3497, Order No. 17574 at 47 (where the Commission applied a five-year average over the Division's recommended nine-year average); In Re City of Newport Water Division Application to Change Rates, Docket No. 3578, Order No. 17992 (where the Commission accepted a four-year average in a settlement agreement). The PWSB simply has not provided the Commission with any basis to deviate from this uniformly accepted regulatory practice.

4. ***Miscellaneous Revenue (ACC-5)***

Contrary to the methodology that the utility employed in connection with its projected small commercial and residential sales, the PWSB, paradoxically does use a six-year average in reporting two other revenue sources, *i.e.,* service installation revenue and miscellaneous non-operating revenue. The PWSB reports data for each of these types of revenue for the past six years (excluding 2005 data) as follows:

	Service Installation Revenue	**Miscellaneous Non-Operating Revenue**
2004	$241,670	$11,581
2003	$156,062	$0
2002	$64,320	$33,757
2001	$78,098	$15,693
2000	$41,741	$24,428
1999	$56,223	$30,957
3-Year Average	**$154,017**	**$15,113**
5-Year Average	**$116,378**	**$17,092**
6-Year Average	**$106,352**	**$19,403**

The Division accepts the PWSB's use of a multi-year average in connection with these two revenue items. However, to be consistent with the Division's recommendations regarding metered sales revenue and wholesale sales revenue, the Division recommends that the Commission utilize a five-year rather than a six-year average.[7]

The five-year updated average (including 2005 data) results in service installation revenue of $140,820 and miscellaneous non-operating revenue of $17,092, for a total of $157,921, and produces a far more accurate approximation of the PWSB's pro forma miscellaneous revenues than the six-year average proposed by the PSWB. The PWSB's expert consultant, David G. Bebyn, C.P.A., testified that the PWSB's FY 2005 installation revenue (which is the principal component of miscellaneous revenues) alone was $163,950. Rebuttal Testimony of David G. Bebyn, C.P.A. at 4, line 21. This figure is significantly greater than the PWSB's updated miscellaneous revenue claim of $125,755. See ACC-5 attached to this brief. A five-year average produces a rate year projection of $157,912 Total Service Installation and Miscellaneous Non-Operating Revenue, far closer to the $163,950 figure than the PWSB's updated $125,755 figure. The Division's recommendation of a $32,157 upward adjustment, therefore, is not only necessary but also completely supported by the evidence presented at hearing.

5. ***State Surcharge Revenue (ACC-6)***

The PWSB collects a surcharge imposed by the State of Rhode Island of $0.0292 for every 100 gallons of water sold. The PWSB retains 6.9% of this amount. Since the Division is recommending an adjustment to the PWSB's total sales, it is necessary to increase that portion of the surcharge that is retained by the PWSB. As calculated, the

[7] Again, the Division does not object if the Commission uses a three-year average for miscellaneous revenue as long as the period that is used is consistent with the period applied to residential and small commercial and wholesale sales.

revenue surcharge adjustment excludes wholesale sales, which Mr. Bebyn observed, are not subject to the surcharge.

B. <u>EXPENSE ADJUSTMENTS</u>

1. <u>Incremental Volumetric Expenses (ACC-7)</u>

Increases in the usage of power and light will require the Commission to make positive adjustments to residential and small commercial consumption, customer growth and wholesale sales that favor the PWSB. The PWSB does not take issue with the Division's calculation regarding the volumetric expense increases associated with these accounts. Thus, if the Commission finds in favor of the Division and makes the consumption, customer growth and wholesale sales adjustments, then the Commission should make a concomitant positive adjustment associated with incremental volumetric expenses.

2. <u>Vacant Positions (ACC-8)</u>

In Docket No. 3497, Order 17574 the Commission held:

> The Commission is allowing funding for only 65 employees and is requiring PWSB to transfer 17 employees Ms. Marchand testified will be transferred because to do otherwise, could allow the vendor an undue reduction in expenses—expenses covered through rates.

<u>Pawtucket Water Supply Board General Rate Filing</u>, Docket No. 3497, Order No. 17574 at 49. This finding came after an exhaustive hearing process during which Ms. Marchand testified, according to the Commission, that the "vendor is only required to employ as many employees as are actually transferred with the transfer of operations." According to Ms. Marchand, "the vendor is expected to be responsible for 17 employees less two that PWSB will keep, translating to a budget of 15 employees in the vendor fee . . . [T]he

vendor will be responsible for hiring permanent replacements for the two temporary employees and that those salaries are included in the vendor's fee." Id. Thus, at the conclusion of Docket No. 3497, it was the Commission's expectation that the PWSB would operate with 48 positions (65 less 17)[8] after the transfer of its treatment plant operations to the vendor, Earth Tech.

Surprisingly, in this docket, the PWSB is requesting funding for 55 positions, an increase of seven positions over the 48-position figure, excluding the five new positions relating to the maintenance of the Central Falls system that the PWSB seeks to purchase. See PWSB Response to Division Data Request 2-12. The seven positions consist of a T& D Crew Leader (Leak Detection), CFO, T & D Water Utility Supervisor, plus two other utility workers (the position eliminated prior to transfer plus a part-time position), a Source Water Supply Manager (SWM) and Source Water Supply Technician (SWT), two positions that the PWSB claims were approved in Docket No. 3378 (the docket prior to Docket No. 3497) but for which funding had not been sought in Docket No. 3497.

The Division's recommended revenue requirement includes funding for "52 employee positions, an increase of four positions over those anticipated by the Commission in the last rate case, and also includes funding for all five positions requested by the PWSB relating to the Central Falls system." Surrebuttal Testimony of Andrea C. Crane at 9. The Division's recommendation represents a substantial increase over the PWSB's anticipated post-Earth Tech transfer number of employees, and is completely

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[8] According to the PWSB, one of these positions, Assistant Plant Maintenance Technician, was filled by temporary help and then eliminated prior to the transfer of the water treatment plant to Earth Tech. Thus, according to the PWSB, only 16 positions were transferred to Earth Tech. As Ms. Crane points out at Page 8 of her Surrebuttal Testimony, since the position was eliminated prior to the transfer, it has "no net impact on the number of positions remaining at the PWSB." That is, after the transfer, the PWSB should still have 48 authorized "funded" positions because the position that was not transferred was eliminated.

supported by the fact three employee positions were vacant prior to the filing of the utility's rate application in April of 2005. See PWSB Response to Division Data Request 2-12.[9]

The Division's recommendations rest on solid legal ground as well. Order No. 17574 acts as a bar to the PWSB's claim for funding the SWM and SWT positions. The issue of the PWSB's post-Earth Tech transfer level of "employee funding"—the starting point for analysis of the same issue in this docket—was raised, litigated and determined by a binding Order of the Commission in that docket (Order No. 17574). The PWSB participated in Docket No. 3497, and had ample opportunity to raise the specific issue of funding these two positions. The PWSB, by its own admission, did not do so. See Rebuttal Testimony of Pamela M. Marchand, P.E. at 7. Order No. 17574 precludes the PWSB from now attacking the validity of the same issue (the post-Earth Tech transfer level of employee funding) in this docket when these prerequisites are satisfied. See e.g., Mullholland Const. Co. v. Lee Pare Assoc., Inc., v. 576 A.2d 1236, 1238 (R.I. 1990) (*res judicata* precludes relitigation between parties to prior action that "*were litigated or might have been litigated in prior action*").

3. Temporary Labor Costs (ACC-9)

The PWSB has requested an increase in temporary employee costs from $80,852 incurred during the test year to $127,600—a 58% increase. The PWSB attempts to justify its proposed increase by discussing generally how the utility has used temporary

[9] *Although the Division does not specify what positions the PWSB should add or eliminate from its work force*, the three positions that represent the difference between the recommendation of the Division (52) and the PWSB (55) could consist of the SWT, the SWM—the two legally barred positions—and the position that the PWSB eliminated prior to transferring the water treatment plant to Earth Tech. Under this scenario, the PWSB would be able to add the T& D Crew Leader (Leak Detection), the CFO, the T & D Water Utility Supervisor, and the part-time utility worker position to its workforce.

employees in the summer or to fill in for employees on vacation. The PWSB also attempts to justify its proposed claim by observing that the utility has had "five persons go out on long term absence" since its rate application was filed with the Commission.

The PWSB's use of temporary labor in the prospective period is no different than its use of temporary labor in the test year. Yet the PWSB is seeking a 58% increase. The PWSB's claim makes no sense. Moreover, of the five individuals on long-term absence, three were expected to return to work by mid-September, see PWSB Response to Division Data Request 5-2, and none of these individuals were absent *when the PWSB filed its rate application.* (Indeed at the hearing, one employee was already back at work.) In other words, the absence of these individuals is merely an after-the-fact rationalization for the proposed 58% increase.

Even if the PWSB's claim for these employees were accepted, the Commission should then simultaneously "reduce [the PWSB's] salary and wage claim to eliminate the salaries and wages for these employees." Without this elimination, ratepayers "will be paying twice for these activities, once for employees who are on long-term absence and again for temporary replacements for these employees." Surrebuttal Testimony of Andrea C. Crane at 10, lines 15-19.

Neither the PWSB's general explanation of its use of temporary labor nor the employee absences really explain the PWSB's request in its filing for a "significant increase[s] in temporary labor costs..." Surrebuttal of Andrea C. Crane at 10. As the PWSB possesses the burden of proof for this item, G.L. § 39-3-12, and as that burden remains completely unsatisfied, the Commission should reject the PWSB's requested increase in temporary labor expense.

4. ***Operating Reserve Fund (ACC-15)***

The Operating Reserve is based upon the requirement contained in the PWSB's bond indentures that the PWSB must maintain a reserve of 25% of its annual operating expenses. Since the Division has recommended several adjustments that reduce the PWSB's rate year operating expenses, it follows that these adjustments will result in a lower Operating Reserve Fund. The PWSB does not dispute the Division's calculation regarding this account.

5. ***Water Treatment Plant ("WTP") Reserve (ACC-16)***

In Docket No. 3497, the Commission approved the creation of the WTP Reserve in the amount of $778,000 annually so that the PWSB could institute repairs on the utility's existing water treatment plant. In accepting the PWSB's position, the Commission permitted funding of the entire $778,000 over one year, noting, "this money is for repairs on the existing plant scheduled to be completed by FY 2005." Pawtucket Water Supply Board General Rate Filing, Docket No. 3497, Order No. 17574 at 48. In this docket, the PWSB seeks to continue funding of the WTP Reserve but at a reduced amount of $389,000 in order to cover any required repairs and provide contribution towards the demolition of the water treatment plant and the Spring Street pump station. By contrast, the Division recommends that the Commission eliminate the PWSB's request for continued funding of the WTP Reserve.

The Division's recommendation is based on a sound accounting of the funds expended to date, as well as the anticipated funds that will accrue in the reserve until the end of 2005. While the PWSB represented to the Commission that the $778,000 was intended to make urgent repairs to its existing or "old" treatment plant, in fact the PWSB effected only one repair to that plant—reparation of fencing at the Spring Street pump station at a cost of $5,450. See PWSB's Response to Commission Data Request 2-12. The PWSB will not incur the cost of any of the other projects for which the $778,000 was intended since "Earthtech has assumed responsibility for [the projects] under the terms of the DBO contract." Id. Ms. Marchand testified as much at hearing:

> Q. Am I correct based on this data response [to Commission data request 2-12] that the only projects that actually will be funded by Pawtucket Water Supply Board are the Spring Street pump station brick repair for $5,450 and the dredging of the sediment basis?
>
> A. That's correct.
>
> Q. And the dredging of the sediment basin, has that been completed or not?
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> A. That will be done when the plant is shut down and taken out of service.

9/13/2005 Transcript at 76-77, lines 22-24 and lines 1-7.

Due to Earth Tech's assumption of the PWSB's obligations to repair the "old" treatment plant, the WTP Reserve balance had accrued to $560,000 as of February 28, 2005. By December 31, 2005, the balance will accrue to approximately $1.2 million. Surrebuttal Testimony of Andrea C. Crane at 12. The PWSB will have sufficient funds in the WTP Reserve to pay for demolition of the existing plant, which according to Ms. Marchand is estimated at about $1.2 million, $800,000 for the Water Purification Plant and $400,000 for the Spring Street Pump Station. Rebuttal Testimony of Pamela M. Marchand, P.E. at 14 & Exhibit 3. Based on the magnitude of these amounts in this account, the Commission should deny the PWSB's request to continue funding the WTP Reserve at $389,000 per year in its entirety.

6. *Operating Income Allowance (ACC-17)*

Time and time again in past dockets the Commission has afforded municipal utilities a 1.5% Operating Income Allowance ("OIA"), calculated on the utility's operating expenses only. According to the Commission, the OIA's purpose is "to address unexpected fluctuations in operating expenses." In Re Pawtucket Water Supply Board Application to Change Rate Schedules, Docket No. 3497, Order No. 17574 at 53. In the recent docket, In Re: City of Woonsocket Water Department Application to Change Rate Schedules, Docket No. 3626, Order No. 18307 at 35, the Commission further explained:

> The Operating Reserve (or OIA) 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.

See also In Re: Kent County Water Authority Application to Change Rate Schedule, Docket No. 3660, Order No. 18316 at 27 (an operating reserve of 1.5% of KCWA's cost of service except for debt service, IFR and capital requirement is reasonable).

In this docket, the PWSB requests the Commission to award the utility an OIA of 5.0% or $938,385 per year. An OIA of this magnitude is substantial. It is equal to roughly 30% of the PWSB's entire requested increase. Even more incredibly, the PWSB requests that the 5.0% be calculated on the utility's total costs, including such fixed costs as debt service, IFR and other reserve deposits.

The Commission must flatly reject the PWSB's OIA claim for a number of reasons. First, a 1.5% allowance "is consistent with the allowances adopted by the Commission in recent cases for other municipal systems," and "there are numerous remedies available to the PWSB in the event of a revenue shortfall or a cost overrun." Surrebuttal Testimony of Andrea C. Crane at 13. For example, the PWSB maintains an Operating Reserve Fund that must be funded at 25% of the PWSB's annual operating expenses. This fund can be used to make debt service payments if there are insufficient amounts in the debt service or renewal and replacement accounts." 9/14/2005 Transcript at 35, lines 7-11. The fund can also be used "to make payments for operation and maintenance if the amount in the operating and maintenance fund is insufficient." See PWSB Response to Division Data Request 2-64. See also 9/14/2005 Transcript at 35, lines 16-21. Amounts used for this purpose, however, must be replenished consistent with PWSB bond indenture covenants.[10]

Additionally, subject to existing case law, the PWSB can always request the Commission, pursuant to G.L. § 39-1-32 and Rule 1.17, to temporarily fix rates until longer-term rate relief can be obtained. In order to address a revenue shortfall or a cost overrun, the PWSB may also obtain a loan from the City of Pawtucket. Subject to the requirements of existing case law and appropriate documentation of indebtedness, G.L. § 39-3-11.1 authorizes a municipal water utility to collect in rates repayment of any existing loan that it has obtained from its respective city, town or municipal corporation.

Further, despite the PWSB's effort to substantiate a 5% OIA based on fluctuating revenues, the PWSB has never delivered unsafe or inadequate water to the public with its existing 1.5% allowance. That is, the 1.5% allowance has never proven insufficient or

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[10] According to the PWSB's expert consultant, the PWSB has never had to tap its Operating Reserve for either of these purposes. 9/14/2005 Transcript at 37, lines 11-14.

inadequate in light of fluctuating revenues or expenses, as evinced by the following dialogue:

> Q. ...on Page 5 you state generally that in every one of the dockets Pawtucket Water Supply Board's actual collections were substantially less than the allowed revenues by amounts that were far in excess of the operating revenue [allowance], is that correct?
>
> A. That's correct.
>
> Q. And that would constitute a period of about six years beginning in fiscal year 1999?
>
> A. I've forgotten the dates that were on Schedule PMM-1, but I think that's correct and I'll accept that, sure.
>
> Q. And in your opinion has the Pawtucket Water Supply Board provided adequate and safe water service during this period of time?
>
> A. To the best of my knowledge, and I'm not sure that I'm the best witness to ask about that, but to the best of my knowledge I don't believe there have been any quality violations...

<u>9/14/2005 Transcript</u> at 32-33, lines 10-24 and lines 1-7. Later, in response to a question by Commission counsel whether "ratepayers had adequate water even though revenues weren't as expected or less than safe water because revenues were less than expected," the same witness testifies: "I think the water was safe and the water was adequate." <u>9/14/2005 Transcript</u> at 51, lines 6-10.

Finally, contrary to the PWSB's contention that investor-owned utilities do not have a similar cushion through their return on equity awards. As Ms. Crane testified:

> Permitting any utility a 5% [OIA] to cover unspecified expenses is alarming . . . a return on equity award is tied to a specific cost incurred by the utility. . . the [OIA] being proposed in this case is not designed to recover a specific cost, but rather it is a cushion that is not currently provided to investor-owned utilities nor should it be.

Surrebuttal Testimony of Andrea C. Crane at 14. No legal or equitable basis exists, then, to award a 5% OIA to the PWSB. The PWSB's request for a 5% OIA sets a "dangerous precedent" by introducing "a speculative component into the ratemaking process." The Commission, therefore, should reject the PWSB's 5% OIA claim, and instead, continue its practice of affording utilities a 1.5% reserve, based on the level of pro forma operating and maintenance expenses found to be reasonable.

III. SUMMARY AND CONCLUSION

Based on all of the foregoing, the Division requests the Commission to grant the PWSB's rate application on such terms and conditions as are consistent with this testimony and exhibits that were elicited at the hearings and with the facts, conclusions and schedules contained in or attached to this brief.

DIVISION OF PUBLIC UTILITIES AND CARRIERS
By its attorneys,

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CERTIFICATE OF SERVICE

I certify that a copy of the within brief was forwarded by regular mail, postage prepaid, to counsel of record on the 31st day of October, 2005.

Schedule ACC-1
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

REVENUE REQUIREMENT SUMMARY

	Company Claim	Recommended Adjustment	Recommended Position	
	(A)			
1. Administration	$2,565,371	($53,701)	$2,511,670	(B)
2. Customer Service	235,384	0	235,384	
3. Source of Supply	702,536	0	702,536	(C)
4. Pumping	568,449	25,762	594,211	(D)
5. Purification	1,898,317	0	1,898,317	
6. Transmission and Distribution	2,262,185	(189,986)	2,072,199	(E)
7. Engineering	535,183	0	535,183	
8. Meter Department	516,249	0	516,249	
9. Total Operating Expenses	$9,283,674	($217,924)	$9,065,750	
10. Debt Service	$5,736,014	$0	$5,736,014	
11. Lease Principal	135,729	0	135,729	
12. Lease Interest	15,233	0	15,233	
13. Infrastructure Rehabilitation	3,100,000	0	3,100,000	
14. Operating Reserve Deposit	108,055	(54,480)	53,575	(F)
15. R&R Reserve Deposit	0	0	0	
16. WTP Reserve	389,000	(389,000)	0	(G)
17 Total Capital Costs	$9,484,031	($443,480)	$9,040,551	
18 Operating Income Allowance	938,385	(802,399)	135,986	(H)
19 Total Revenue Requirement	$19,706,090	($1,463,803)	$18,242,287	
20 Miscellaneous Revenues	303,226	33,693	336,919	(I)
21 Required Rate Revenue	$19,402,864	($1,497,496)	$17,905,368	
22 Rate Revenue at Present Rates	16,264,860	413,309	16,678,169	(J)
23 Required Increase	$3,138,004	($1,910,805)	$1,227,199	
24 Percentage Increase	19.29%		7.36%	

Sources:
(A) PWSB CPNW Schedule 1.0.
(B) Schedule ACC-8.
(C) Not Applicable.

Schedule ACC-2
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

RESIDENTIAL AND SMALL COMMERCIAL CONSUMPTION

1. Five Year Average Consumption (HCF)	3,185,669	(A)
2. PWSB Claim (HCF)	3,095,831	(B)
3. Recommended Volume Adjustment (HCF)	89,838	
4. Current Rate Per HCF	$2.57	(C)
5. Recommended Revenue Adjustment ($)	$230,972	

Sources:

(A) Derived from the response to DIV 2-27, updated to include 2005 data.
(B) PWSB CPNW Schedule 10.0, page 1.
(C) Current tariff rate.

Schedule ACC-3
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

CUSTOMER GROWTH ADJUSTMENT

1. Pro Forma Residential and Small Commercial Sales (HCF)	3,185,669	(A)
2. Residential and Small Commercial Customers at 6/24/04	21,931	(B)
3. Average Usage Per Customer (HCF)	145	(C)
4. Customer Growth Through June 30, 2006	144	(D)
5. Total Incremental Consumption (HCF)	20,918	(E)
6. Tariff Rate	$2.57	(F)
7. Annual Volumetric Revenue Adjustment	$53,779	(G)
8. Annual Fixed Charges @ $21.16/quarter	12,188	(H)
9. Total Annual Revenue Adjustment	**$65,968**	

Sources:
(A) Schedule ACC-2.
(B) Includes 5/8 " meters, 3/4 " meters, and 90% of 1" meters per the response to DIV 2-26.
(C) Line 1 / Line 2.
(D) Reflects two years of average annual growth derived from the response to DIV 2-26.
(E) Line 3 X Line 4.
(F) Current Tariff rate.

(G) Line 5 X Line 6.
(H) \$21.16 per quarter X 4 quarters X 144 customers per line 4.

Schedule ACC-4
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

WHOLESALE REVENUE

1.	Five Year Average Wholesale Sales (HCF)	666,582	(A)
2.	PWSB Claim (HCF)	612,000	(B)
3.	Recommended Sales Adjustment (HCF)	54,582	
4.	Current Tariff Rate Per HCF	$2.13	(B)
5.	Recommended Revenue Adjustment	**$116,369**	

Sources:
(A) Derived from Response to DIV 2-27, updated to include 2005 data.
(B) PWSB CPNW Schedule 10.0, page 1.

Schedule ACC-5
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

MISCELLANEOUS REVENUE

1. Five Year Average Service Installations	$140,820	(A)
2. Five Year Average Misc. Non-Operating	17,092	(A)
3. Total Service Install. and Misc. Non-Op. Revenue	$157,912	
4. PWSB Claim	125,755	
5. Recommended Adjustment	**$32,157**	

Sources:
(A) Derived from PWSB CPNW Schedule 1.2, updated to include 2005 data.

Schedule ACC-6
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

STATE SURCHARGE REVENUE

1. Total Volumetric Sales Adjustments (HCF)	110,755	(A)
2. Volumetric Sales Adjustments (100 Gals.)	828,450	(B)
3. State Surcharge Per 100 Gallons	$0.001854	(C)
4. Pro Forma Revenue Adjustment	**$1,536**	

Sources:

(A) Schedule ACC-7. excludes wholesale sales adjustment.

(B) Line 1 X 748 Gallons per HCF / 100 gallons.

(C) State surcharge of $0.0292 is paid by app. 92% of customers, and 6.9% is retained by the PWSB. Rate = $0.0202 X .92 X .069.

Schedule ACC-7
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

INCREMENTAL VOLUMETRIC EXPENSE

1. Residential and Small Commercial Adjustment	89,838	(A)
2. Customer Growth Adjustment	20,918	(B)
3. Wholesale Sales Adjustment	54,582	(C)
4. Total Volumetric Adjustment	165,337	
5. Incremental Costs Per HCF	$0.16	(D)
6. Total Recommended Expense Adjustment	**$25,762**	

Sources:
(A) Schedule ACC-2.
(B) Schedule ACC-3.
(C) Schedule ACC-4.
(D) See below:

Light and Power - Supply	28,290	CPNW Sch. 1, page 2.
Purchased Power - Pumping	564,045	CPNW Sch. 1, page 2.
Light and Power - Purification	210,263	CPNW Sch. 1, page 3.
Total Costs	$802,598	
Total Claimed Volumes (HCF)	5,150,921	
Costs Per HCF	$0.16	

Schedule ACC-8
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

VACANT POSITIONS

	Administration	**Tran. & Dis.**
	(A)	(A)
1. Base Pay	($34,152)	($106,844)
2. Longevity Costs	0	(3,317)
3. Health Insurance	(13,627)	(27,253)
4. Workers Comp	(1,410)	(4,550)
5. MERS	(1,899)	(6,125)
6. Payroll Taxes	(2,613)	8,427
7. Total Adjustment	**($53,701)**	**($139,661)**

Sources:
(A) All amounts per the response to DIV 2-12.

Schedule ACC-9
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

TEMPORARY LABOR COSTS

1.	Temporary Labor Costs - TY	$80,852	(A)
2.	PWSB Claim	127,600	(B)
3.	Recommended Payroll Adjustment	($46,748)	
4.	Payroll Taxes @ 7.65%	(3,576)	(C)
5.	Total Temporary Labor Adjustment	**($50,324)**	

Sources:

(A) Response to DIV 2-6.
(B) Derived from response to DIV 2-12.
(C) Based on Statutory Tax Rate.

Schedule ACC-10
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

INFLATION ADJUSTMENT

NOT APPLICABLE

Schedule ACC-11
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

REGULATORY COMMISSION EXPENSE

NOT APPLICABLE

Schedule ACC-12
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

SECURITY COSTS

NOT APPLICABLE

Schedule ACC-13
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

PROPERTY INSURANCE

Adjustment Withdrawn

Schedule ACC-14
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

FEES AND PERMITS

Adjustment Withdrawn

Schedule ACC-15
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

OPERATING RESERVE FUND

1. Pro Forma Operating Expenses	$9,065,750	(A)
2. Required Reserve @ 25%	2,266,438	(B)
3 Estimated Balance at December 31, 2005	2,212,863	(C)
4. Required Rate Year Addition	$53,575	
5. PWSB Claim	108,055	(C)
6. Recommended Adjustment	**($54,480)**	

Sources:
(A) Schedule ACC-1.
(B) 25% of Line 1.
(C) PWSB Filing, CPNW Schedule 1.1, page 1.

Schedule ACC-16
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

WTP RESERVE

1. Company Claim	$389,000	(A)
2. Recommended Adjustment	**($389,000)**	

Sources:
(A) PWSB CPNW Schedule 1.0, page 5.

Schedule ACC-17
Brief

PAWTUCKET WATER SUPPLY BOARD

RATE YEAR ENDING DECEMBER 31, 2006

OPERATING INCOME ALLOWANCE

1. Pro Forma Operating Expenses	$9,065,750	(A)
2. Income Allowance @ 1.5%	135,986	(B)
3. PWSB Claim	938,385	(C)
4. Recommended Adjustment	**($802,399)**	

Sources:
(A) Schedule ACC-1.
(B) 1.5% of Line 1.
(C) PWSB CNPW Schedule 1.0, page 5.