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BY ELECTRONIC AND REGULAR MAIL

October 12, 2007

Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: Providence Water Supply Board Application To Change Rate Schedules – Docket No. 3832 – Post-Hearing Brief Of The Division Of Public Utilities And Carriers

Dear Ms. Massaro:

Please find enclosed for filing in the referenced docket the Post-Hearing Brief of the Division of Public Utilities and Carriers ("Division").

An original and nine copies are enclosed. Both electronic and hardcopy will be provided to the service list for this docket.

Sincerely,

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Service List, Docket 3832

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE:	**PROVIDENCE WATER SUPPLY BOARD APPLICATION TO CHANGE RATE SCHEDULES**	)))	**DOCKET NO. 3832**

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

During the September 12, 2007, hearing in this matter, the Chairman of the Public Utilities Commission ("Commission") addressed the following comment to the lawyers for the various parties, asking that those lawyers address his comment:

> My first question is a question for the lawyers in this case. There's a request by the Providence Water Supply Board to seek ratepayer funding for health insurance debt to the City of Providence for the fact that for a period of years the retirees' expenses, retirees of the Water Supply Board were not being paid by the Water Supply Board, and my question is is that request – would that request, if granted, be retroactive ratemaking. I'd like the lawyers to address that.

In Re Providence Water Supply Board Application To Change Rate Schedules, Public Utilities Commission Docket Number 3832, transcript of September 12, 2007, hearing pp. 107 (line 24)-108 (lines 1-9). The Division of Public Utilities and Carriers ("Division") submits the following as its post-hearing brief in Docket No. 3832 to address the Chairman's question as well as to restate the Division's position on the more significant issues on which the parties remain in disagreement.

Retroactive Ratemaking

What is "retroactive ratemaking"?

> "Retroactive ratemaking" refers to an improper recovery of costs that were properly recoverable only in a past period or periods. In the absence of express statutory direction, it is unlawful for an agency to alter the past legal consequences of past actions, such as by awarding damages for past illegal conduct. An agency may, and indeed must in an appropriate case, affect the future legal consequences of past transactions. Such "secondary retroactivity" is an "entirely lawful consequence of much agency rulemaking and does not by itself render a rule invalid."
>
> The Indiana commission usefully summarized the three basic functions served by the rule against retroactive ratemaking:
>
> a) protecting the public by ensuring that current customers pay for their own service and not for past deficits;
> b) preventing utilities from using future rates to protect the financial investment of their stockholders, *i.e.*, providing a guaranty, rather than an opportunity, for a fair rate of return; and
> c) requiring utilities to bear losses and enjoy gains that depend on their own managerial efficiency.

1 LEONARD SAUL GOODMAN, THE PROCESS OF RULEMAKING 165-166 (Public Utilities Reports, Inc., 1998) (citations omitted). It seems clear from the tenor of Chairman Germani's question, particularly taken in the context of his other questions and comments, that he is concerned with the three functions set out by his colleagues on the Indiana commission several years ago. However, before considering those policy concerns, we must first determine whether these costs were properly recoverable only in an earlier period and whether there is statutory direction to allow costs of this nature to be recoverable. If the retiree health care costs are properly recoverable now, and if there is statutory authority for doing so, we need not address the three functions served by the bar on "retroactive ratemaking" articulated by the Indiana commission are not applicable in this case.

In the instant case there was a significant amount of unrebutted testimony that the Providence Water Supply Board ("PWSB") had been contributing nothing toward the health care of its retirees for at least the last twenty years. Instead, all of the health care costs of the PWSB retirees had been paid for by the City of Providence ("City").[1] The City has calculated an estimated cost for that health care going back ten of the twenty years, and seeks to treat that amount as a loan advanced by it to the PWSB for the benefit of the PWSB's retirees. It is undisputed that the City has in fact been paying for the health care of PWSB retirees out of the City's own budget, and it is undisputed that the PWSB had not reimbursed the City for those payments until beginning in 2006.

Both statutory and relevant case law support the reimbursement the PWSB is proposing. In the case *In re: Woonsocket Water Department*, the Woonsocket Water Department proposed a rate increase that would increase the department's budget by 114.4% to repay a debt it owed to the city of Woonsocket from the preceding four years. The court found that "[r]egardless of the water department's reason for allowing the debt to accumulate for four years without taking curative steps, this provision permits the water department to institute a retroactive rate to repay its loan from the city." In re: *Woonsocket Water Department*, 538 A.2d 1011 (R.I. 1992). The provision the court relied on is R.I. Gen. Law section 39-3-11.1(a), which states:

> [T]he commission shall not have the power to suspend the taking effect of any change or changes in the rates, tolls, and charges filed and published in compliance with the requirements of §§ 39-3-10 and 39-3-11 by any public waterworks or water service owned or furnished by a city when

[1] PWSB retirees participate in the same retirement and health care programs as the retirees of the City. The PWSB has routinely contributed to the City's retirement plan on behalf of its own employees for years, and has testified that it should have been contributing on a similar basis to the health care plan. Instead, the PWSB has not made any health care contributions for its retirees and, until recently, the City had not realized that it was failing to seek the appropriate contributions from the PWSB to cover the cost of the PWSB's retirees' health care. The City is treating those unreimbursed payments as a loan to the PWSB and seeks to recover its estimated costs for PWSB retirees for the past ten years only.

> such change or changes are proposed to be made solely for the purpose of making payments or compensation to any city or town for reimbursement of any loans or advances of money previously issued to any said public waterworks or water service by any city or town.

This statute provides the PWSB the authority to seek the proposed rate increases even though that increase might, in the absence of this statute, be viewed as an impermissible retroactive rate increase. In *O'Neil v. Malachowski*, the PWSB filed a surcharge tariff in the amount of $5,020,927.56 in order to reimburse the City for advances made. The Attorney General filed a motion for rejection of the surcharge tariff, which was denied by the Commission and subsequently filed a statutory petition for certiorari. The court denied the petition for certiorari and affirmed the Commission's order allowing the retroactive ratemaking. The court held that "The Legislature has struck a balance in this situation between reimbursement to taxpayers and protection of the interest of ratepayers that is quite different and distinct from the balance struck between private investors in a public utility and ratepayers." *O'Neil v. Malachowski*, 604 A.2d 1268 (R.I. 1992). In effect, the court recognized that the legislature has created a limited exemption for publicly owned water authorities (such as PWSB) from the general bar to retroactive ratemaking, a limited exemption which the legislature did not choose to extend to privately owned public utilities.

In a subsequent PWSB case, *PWSB v. Malachowski*, the PWSB petitioned the court to review a decision and order of the Commission which decreased the proposed surcharge designed to collect $5,020,927.56 to reimburse the City for advances made between November 1988 and March 1991. The Commission decided to authorize a surcharge of $4,595,000 but limited the amount to be paid to the City as "remuneration for the PWSB borrowing to $1,346,449 without interest..." It also subjected the PWSB

to more rigorous reporting and required the city to repay the balance of the monies due to the city from "savings through more efficient operations." The court upheld the order of the Commission and noted that "[a]lthough the city must bear some responsibility in permitting the PWSB's debt to grow unchecked, it is not in the taxpayers' interest to permit the PWSB to use funds earmarked for long-term capital improvements to finance uncontrolled current expenses." The court found that there was a reasonable basis for the Commission's decision, and the order was upheld. *Providence Water Supply Board v. Malachowski*, 624 A.2d 305 (R.I. 1993).

While it appears, to the dismay of some past Commissioners, that the interpretation of the statute in case law has figuratively tied the hands of the Commission, there is nothing stating that the Commission cannot restrict the amount to be repaid. Quite the contrary is true. In *PWSB v. Malachowski* the Commission clearly adjusted the retroactive ratemaking PWSB was proposing. In the order from which that case stems, Commission Order Number 13732, the Commission held that "[t]he Rhode Island Supreme Court has explicitly endorsed municipal water authorities' assessment of retroactive rates to repay city loans...[W]hether or not the Commission agrees with the statutory exception to the retroactive ratemaking bar, it is constrained to follow the law." In Commission Order Number 13941, the Commission agreed to the surcharge with some conditions, which are mentioned in the decision of *PWSB v. Malachowski*. In a scathing dissenting opinion, Commissioner Sapinsley stated that "[t]he need to borrow from the city of Providence results from the PWSB's cavalier spending, contrary to the order of the PUC. This was accomplished by taking advantage of an illogical, frustrating law

which permits the PWSB to borrow short term funds from the City when their spending levels exceed revenues."

In another order concerning the PWSB, the Commission put PWSB on a short leash. Commission Order Number 14400 states:

> This Commission can no longer tolerate the magnitude of Section 39-3-11.1 surcharges, filed by the PWSB, as witnessed over that last five years. In Docket No. 1900, the PWSB sought and received a surcharge recovery of $2,578,394 (Order No. 12796). In Docket No. 2022, the PWSB requested surcharge relief of $5,020,927.56; it was authorized to collect $4,595,000 (Order No. 13914). In this docket, the PWSB is seeking to collect surcharge revenues totaling $5,375,876. This Commission firmly believes that the surcharge mechanism available to the PWSB through Section 39-3-11.1 were designed for short-term borrowing in times of cash flow difficulties. Therefore, in order to curtail the PWSB's extravagant use of Section 39-3.11.1, the Commission will mandate that the PWSB both report on its Due To/Due From Account balance on a monthly basis; and submit to a public hearing on its financial condition when its Due To/Due From account reflects borrowings over $500,000.

While it seems clear that the Commission wished to avoid, as much as possible, the magnitude of debt relief being sought in the instant case, it appears that PWSB, in filing this rate case and thereby bringing this issue before the Commission to be reviewed and addressed, has complied with Commission Order Number 14400.

After reviewing the applicable statutes and case law it appears the manner in which the Supreme Court of Rhode Island has chosen to construe 39-3-11.1(a) requires the Commission to allow retroactive ratemaking in these specific circumstances (namely to reimburse a city or town for any loans or advances to the water department) while allowing the Commission to regulate and investigate the actual surcharges passed on to the ratepayer. This is not a situation, like *PWSB v. Malachowski*, where the PWSB has entered into a loan arrangement in a manner inconsistent with prior Commission Orders. Without violations of such an Order, the Court has upheld a Commission ruling allowing

the water supply board to repay the city for various management and other expenses. *Audobon Society of Rhode Island v. Malachowski*, 569 A.2d 1 (R.I. 1990). This is true even if utility expenses have been growing disproportionately to the City's budget, and a 2-page letter breaking down claimed costs into seven categories is the only documentation that reflects the "loan." *Id.* *See also In Re: Woonsocket Water Department*, 538 A.2d 1011, 1015 (R.I. 1988) (where Court affirmed decision of Commission to allow water department to institute a retroactive rate to repay its loan from city "regardless of water department's reason for allowing the debt to accumulate for four years").

The Division recognizes that it could be argued that a pre-existing loan or advance, which indicates bargained for consideration, was not present in the case at hand. There isn't so much as a 2-page letter documenting the situation from its inception. It could also be argued that the statute was put in place to allow the city to assist a utility by entering into a contract or agreement, but not to condone imprudent spending by the utility by fabricating a contract after the fact. However, we believe that it is clear that the PWSB's retirees' health care has been paid for by the City now for many years. We further believe that it is clear that PWSB should have been, but was not, reimbursing the City for the City's payments. Therefore we believe it is only appropriate that PWSB be allowed to treat these payments as what they are – an obligation to the City incurred on behalf of PWSB's retirees – and that it further be allowed to reimburse the City.

So, to return to answer Chairman Germani's question, is this an example of "retroactive ratemaking"? We do not believe it is, at least in Rhode Island. Under our law, if we recognize this as a debt owed by PWSB (a publicly controlled, not privately

owned, public utility) to the City, then we are no longer speaking of a cost recoverable only in an earlier period. There is clear statutory authority allowing a public utility such as PWSB to seek recovery of this particular cost under these particular circumstances, and both the Supreme Court and the Commission have allowed PWSB (and similar utilities) to recover such costs in the past. Even if this might be viewed as an example of "retroactive ratemaking" for a privately owned utility, it is not an example of such in this case. PWSB is not attempting to shift the risk of a financial loss from shareholders (it has none) to ratepayers; it attempting to reimburse the City for monies loaned to it over a number of years.

Now let us turn to a few of the remaining issues where the parties were not all in agreement.

Operating Revenue Allowance

On the revenue requirement side, the only remaining issue between the Division and PWSB is that of the appropriate operating revenue allowance. It is the Division's position that, while PWSB's proposal as set forth in the Rebuttal of Ms. Marchand merits consideration, that consideration should be given in the context of the pending generic proceeding that the Commission discussed in its deliberations in the recent Newport Water proceeding in Commission Docket Number 3818. Consistent with its finding for Newport Water, the operating revenue allowance for PWSB should continue to be set at 1.5% of total operating expenses less miscellaneous revenue as has been the historical practice for PWSB.

Cranston Tax Refund

PWSB has agreed with the Division's proposal that: (1) the refund is to be set aside in an interest bearing account; (2) that $375,000 will be used each year for the next three years to reduce the revenues required from current rates; (3) the benefit of that reduction will be allocated to customer classes in proportion to the historical allocation of Cranston property taxes; (4) the remaining dollars can only be used for property tax related litigation; (5) PWSB will provide detailed documentation of the amounts spent for property tax disputes for review annually; (5) at the end of three years any unspent funds will be returned to ratepayers absent approval by the Commission of an alternative disposition; and (6) all additional tax refunds or rebates from other taxing authorities shall be set aside in this account so that their disposition can be determined in future PWSB rate cases.

Include 2007 Sales Results In Developing A 5-Year Average Sales Level

Subsequent to the Hearing, PWSB proposed to the parties that the 2007 sales results be included in developing a 5-year average sales level. The parties and their consultants engaged in extensive discussions of this proposal and its potential ramifications. The Division does not object to the proposal.

Lost And Unaccounted For Water ("LUFW")

Kent County Water Authority ("KCWA") proposed in the surrebuttal testimony of its witness, Mr. Christopher Woodcock, that a new method be used for allocating lost and unaccounted for water (LUFW). *See Surrebuttal Testimony of Christopher Woodcock* filed September 7, 2007, at pp. 8 (lines 17) through 11 (line 6). At that time, for the first time, Mr. Woodcock proposed relying on a methodology allegedly developed

under the aegis of the International Water Association and published in a report (uncited and not provided as an exhibit) in 2000, that allegedly:

> ...presented methodologies for determining water losses, consistent definitions of terms, and benchmarks that can be used by water utilities. Water audits using this method have been performed in major cities such as Philadelphia, Boston, Cleveland, Detroit and Seattle...

Id. at pp. 8 (line 29) through 9 (line 3).[2] Mr. Woodcock then went on to make reference to another article as providing the basis for his new method of determining LUFW:

> In 2003 the AWWA Water Loss Control Committee published "Appplying World-wide Best Management Practices in Water Loss Control" (Journal AWWA, August 2003, Vol. 98, No. 8). This included performance indicators to determine unavoidable annual real losses. The annual volume of unavoidable losses is a function of the length of water mains, number of service connections, and length of water mains, number of service connections, and length of private service connections. Most notable, the size of diameter of the pipe is ***NOT*** one of the elements considered – it is simply the length of pipe.

Id. at p. 9 (lines3-9).

Not too surprisingly, and for very good reason, PWSB objected to the consideration by the Commission of any of Mr. Woodcock's testimony on this subject on the grounds that it was procedurally inappropriate to introduce a substantive new issue for the first time in *surrebuttal* testimony, and moved that it be stricken. *Transcript of September 12, 2007, hearing* at pp. 9 (line11) through 11 (line 20). The Division agrees fully with PWSB's position on this, and regrets that the motion was denied.

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[2] It is interesting to note that Mr. Woodcock's testimony as quoted starts by stating that this unidentified publication presented "methodologies" – plural – but that the cities he says relied on it applied "this method" – singular – without indicating to us whether all of the cities used the same method, different methods suggested by the study, or whether there were any real similarities in the approaches adopted by these cities. None of the audits allegedly done by these named cities were provided to the other parties for review and analysis. In fact, we really have no way of knowing whether the audit "methodologies" adopted by these cities varied significantly from the inch-mile type of study traditionally used in the industry and used by PWSB in this filing.

Prior to Mr. Woodcock's surrebuttal testimony advocating a wholly new method of calculating LUFW, there was at best only an oblique reference to the possibility:

> **Q. You indicated some issues with the calculation and assignment of unaccounted for water in you discussion of Symbol A. Do you believe the revision back to the prior method full reflects the proper assignment of unaccounted for water?**
>
> A. No I do not. For purposes of this docket I think it is critical that the Commission explicitly *reconfirm* that unaccounted for water must be taken into consideration in the allocation of costs between wholesale and retail customers.
>
> I would not like the Commission to close the door on further analysis of this matter. I believe that the method that has been used in the past fails to consider the losses due to under-registration of meters (primarily a retail only use), I believe that the inch-foot method that we have used *may* assign too much leakage to larger transmission pipes and too little to distribution pipes, and perhaps most importantly, I know that the current method has no consideration of the losses through miles of service connections to retail homes and fire services. In summary, I believe the current method is a good first step, but that it still assigns too much to the wholesale customers. Perhaps in surrebuttal testimony or a subsequent docket, the wholesale customers will present more evidence on this matter. I simply would not like further refinements to the assignment of unaccounted for water precluded in this docket.

See Prefiled Testimony of Christopher Woodcock filed July 18, 2007, at p. 19 (lines 6-25). The words "*perhaps* in surrebuttal testimony *or in a subsequent docket*" (emphasis supplied) simply do not give PWSB or the other parties sufficient notice of what Mr. Woodcock is proposing to allow them to respond substantively to Mr. Woodcock's argument. If Mr. Woodcock and KCWA wished to put forward a new method for calculating LUFW in this docket, Mr. Woodcock needed to put the details in his direct testimony. It seem clear from the context of the quote that Mr. Woodcock was already aware of the IWA study and AWWA article he would refer to nearly two months later. If so, he should have provided that testimony in his direct case and allowed the other parties

sufficient time to review his argument and his sources and evaluate them. Showing his hand for the first time less than a week before the hearing was simply not fair to the other parties and should not be allowed. Waiting to the last minute as he did, and failing to provide the cited studies as exhibits, invites the other parties to infer that he lacks confidence that those studies would, upon review and reflection, support his stated position.

It is surely worth noting on this point that in the cost allocation study accompanying his direct testimony, Mr. Woodcock used the same basic procedure for allocation of LUFW as the Division's witness, Mr. Mierzwa. In rebuttal, the PWSB's witness, Mr. Smith, accepted this same basic methodology as well. Thus, in their direct (or, in the case of PWSB, rebuttal) cases, all three consultants for the parties, Mr. Woodcock (KCWA), Mr. Mierzwa (Division) and Mr. Smith (PWSB) agreed on and utilized the same inch-mile approach that has been used in the past in Rhode Island cases.

Even today, we can say very little about the validity of Mr. Woodcock's totally new method. We still have not seen the material referenced in his surrebuttal testimony. In fact, from his testimony it appears that, as of the time of his testimony, Mr. Woodcock had never actually seen the material he was asking the Commission to rely upon. *See Transcript of Hearing on September 13, 2007,* at pp. 240 (line 14) through 243 (line 2). We do not know for a fact whether this new methodology has ever been used in another jurisdiction, and we know that it has never been used in Rhode Island. (Even Mr. Woodcock did not suggest that he had ever successfully advocated for this in any other rate case). We simply do not know enough about this new method to know whether it

was even intended to be used to allocate costs for ratemaking, let alone whether it can be properly applied on the PWSB system.[3]

Western Cranston Investment

Traditionally all investment has been allocated based on PWSB's assets; the Division believes that this practice should be maintained. KCWA wants Western Cranston allocated solely to retail. The Division does not believe that investment items should be broken out and allocated separately. Mr. Woodcock, in fact, summarizes the rationale for this very succinctly in his direct testimony:

> Mr. Smith has allocated the costs of the Western Cranston fund based on the allocation of Providence Water's assets. This is consistent with the way these costs have been allocated in the past. Allocating capital items based on net value of assets is certainly an accepted method for assigning capital costs; it smoothes out investments in different functional areas and minimizes drastic changes in rates. Over time, the payment of debt or rate funded capital will generally be in proportion to the asset values.

Prefiled Testimony of Christopher Woodcock filed July 18, 2007, at p. 25 (lines 17-23). Mr. Woodcock goes on to argue that the Western Cranston investment should be treated differently because its expense "has no relationship to or benefit for wholesale customers." *Id.* at p. 25 (lines 26-27). Even assuming, *arguendo,* that he is correct that there is no benefit here to wholesale customers[4], there are also clearly investments

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[3] Division Exhibit 8 contains a couple of tables that summarize the so-called IWA/AWWA method. The second of these tables contains a comment that explains what the Unavoidable Annual Real Losses (UARL) are (and this was the key figure that Mr. Woodcock advocated using as providing the LUFW – *see Surrebuttal Testimony of Christopher Woodcock* filed September 7, 2007, at p. 9 (lines 3-9)). The UARL is "A ***theoretical reference value*** representing the technical low limit of leakage that could be achieved if all of today's best technology could be successfully applied. A key variable in the calculation of the Infrastructure Leakage Index (ILI)." In other words, contrary to Mr. Woodcock's view, the UARL is not intended to give us a figure that approximates the LUFW, but serves only as a baseline of what the absolute most technologically advanced rather than actual system might expect to lose annually.

[4] In fact, the Western Cranston Investment does benefit wholesale customers in Johnston, Rhode Island, though the wholesale amounts are only a small portion of the total. *See* KCWA Exhibit 3, response to KCWA Data Request 4-8(b); *Transcript of Hearing on September 13, 2007,* at pp. 186 (line 17) through 188 (line 10).

which only benefits wholesale customers, and we have not separately allocated these costs. Yet Mr. Woodcock does not argue that those investments should also be treated differently. We believe Mr. Woodcock's earlier testimony should be adopted. "Allocating capital items based on net value of assets is certainly an accepted method for assigning capital costs; it smoothes out investments in different functional areas and minimizes drastic changes in rates. Over time, the payment of debt or rate funded capital will generally be in proportion to the asset values." *Id.* at p. 25 (lines19-23). The amount in question here, $62,000.00 (or 0.1 percent of PWSB's revenue requirement) is too small to justify what really amounts to a major change in the way costs are allocated.

Reallocation of Meters & Services, Billing & Collections, Pensions & Benefits

The Division continues to believe that these items should be reallocated to the base category. This is consistent with the Commission's concerns in past dockets to mitigate the impact on customer charges. In fact, we believe that if these items are not reallocated to base, the increase in the average residential customer charge will be about 64% (*see* PWSB's HJS Exhibit 12 (Updated)).

Fire Protection

In this proceeding, PWSB has arbitrarily reduced the maximum day and maximum hour demands assigned to the fire-protection service by 50 percent. As a result, 50 percent of the fire protection demand related costs are recovered by the public fire protection charge, and 50 percent are recovered from retail ratepayers through volumetric charges. We do not believe that this change should be approved for several reasons.

First, PWSB's proposal also reduces the allocation of costs to private fire protection service, thereby requiring general water service customers to bear a portion of the costs of private fire service (in addition to those they already bear due to the treatment of IFR costs). There is no basis for this reduction.

Second, the Commission currently requires all IFR costs to be recovered through volumetric rates. As a result, very little, if any, IFR costs are assigned to fire protection service even though fire protection service benefits from IFR improvements. These IFR costs are assigned to other customers. The volumetric recovery of IFR costs is a basis to reject PWSB's proposal because other customers are already paying for a portion of the costs associated with fire protection service.

Finally, the recovery of costs through volumetric rates provides less revenue stability than the recovery of costs through fixed fire protection charges. PWSB's proposal to recover a portion of fire protection charges through volumetric rates would be inconsistent with PWSB's desire for revenue stability.

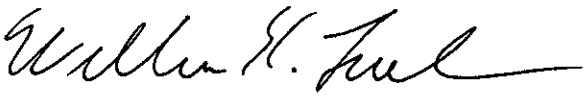
The Division believes that if the Commission were to adopt a policy of recovering less than the cost of service through fire protection charges, it should first require that the full cost of providing fire protection service should be identified. Then, and only then, would the Commission be able to make an explicit decision as to which customers should pay for the unrecovered fire protection services costs. Unfortunately, under PWSB's proposal to reduce demands by 50 percent, the full cost of providing fire protection service is unknown.

Conclusion

For the foregoing reasons, the Commission should approve the proposal to allow PWSB to recover sufficient revenue to reimburse the City of Providence for the health care costs of PWSB's retirees between the years 1997 and 2006, as well as continue to reimburse the City for those expenses on a going-forward basis. Subject only to the other comments set out above with regard to revenue requirements and rate design, the Commission should approve the remainder of this filing.

DIVISION OF PUBLIC UTILIITIES
AND CARRIERS
By its Attorneys,

PATRICK C. LYNCH
ATTORNEY GENERAL



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CERTIFICATE OF SERVICE

I certify that a copy of the within document was forwarded, by email and by regular mail, postage prepaid, to the Service List in Docket No. 3832 on the 12th day of October, 2007.