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October 12, 2007

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

Re: Providence Water Supply Board – Full Rate Filing
Docket No. 3832

Dear Luly:

Enclosed is Providence Water Supply Board's Post-Hearing Brief. An original and nine copies are enclosed.

If you have any questions, please feel free to call.

Very truly yours,


Michael R. McElroy

MRMc:tmg
PWSB16:2007-Massar06
cc: Service List

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PROVIDENCE WATER SUPPLY BOARD : DOCKET No. 3832
FULL RATE FILING :

PROVIDENCE WATER SUPPLY BOARD'S
POST-HEARING BRIEF

Respectfully submitted,
PROVIDENCE WATER SUPPLY BOARD
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STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PROVIDENCE WATER SUPPLY BOARD : DOCKET No. 3832
FULL RATE FILING :

PROVIDENCE WATER SUPPLY BOARD'S POST-HEARING BRIEF

INTRODUCTION

1. REVENUE REQUIREMENT

Providence Water Supply Board (PWSB) originally filed for a rate increase of \$9,688,321. In its direct testimony, the Division recommended only \$7,389,179. In rebuttal, PWSB reduced its request to \$7,921,072. In surrebuttal, the Division recommended \$6,594,314, a 32% (\$3,094,007) reduction to PWSB's original request. At the hearings, PWSB accepted a \$375,000 Division surrebuttal adjustment for the Cranston tax litigation, as well as a corresponding \$100,027 adjustment for legal and engineering tax litigation expenses (but only if the PUC accepts the Division's position on the Cranston tax litigation). Accordingly, the only revenue requirement issue remaining between PWSB and the Division is the operating reserve. PWSB is seeking 3% and the Division is recommending 1.5%, a \$851,732 difference. Therefore, PWSB's revenue requirement request is now \$7,446,045 (which is PWSB's \$7,921,072 rebuttal figure, minus the \$375,000 Cranston adjustment and the \$100,027 conditional O&M adjustment).¹ PWSB seeks new rates for consumption on and after November 1, 2007. (tr. 9/12/07, at 65.)

2. RATE DESIGN

The recommended rate design percentage increases (or decreases) of the parties break down approximately as follows:

¹ KCWA is seeking a revenue adjustment of about \$333,415 to City services, but is not seeking the \$851,732 operating revenue adjustment. Please also note that PWSB has provided updated consumption figures for fiscal year 2007 (and also updated the meters and services numbers). PWSB requests that the updated numbers be used to calculate rates. It is PWSB's understanding that both the Division and KCWA agree that the updated FY2007 numbers should be utilized.

	PWSB	Division	KCWA
Retail Consumption	6.0%	8.3%	16.9%
Retail Service Charges	61.8%	29.5%	-4.8%
Wholesale Consumption	21%	16%	13.8%
Private Fire Charges	51.1%	42.7%	15.2%
Public Fire Charges	-13.7%	17.6%	10.7%
Overall (after application of misc. revenues)	14.5%	12.8%	13.8%

PWSB's updated data response to PUC 5-7 summarizes the remaining rate design differences in detail.² (tr. 9/13/07, at 162-164.) Most of the rate design differences are insignificant. The significant differences between PWSB and the Division are (1) that PWSB allocated 50% of the assumed demand related costs for fire protection to the retail consumption charge, and (2) PWSB allocated pension and benefit costs for customer accounts to base/extra capacity cost categories recovered by the service charge. The only significant differences between PWSB and KCWA are (1) the fire protection allocation issue set forth above, (2) that PWSB and the Division have allocated 25% of the wholesalers' cost of service to a new proposed monthly base charge, and (3) that PWSB and the Division have allocated unaccounted for water based on the PUC's traditional practice of using inch miles of pipe, whereas KCWA suggested the unprecedented use of miles of pipe.

ANALYSIS

I. UPDATED FISCAL YEAR 2007 CONSUMPTIONS AND METERS AND SERVICES SHOULD BE USED

As the Chairman stated:

“Well, wouldn't the most recent consumption be a better example of what the future is going to be than averaging it over a 3-year period?” (tr. 9/12/07).

The parties appear to all agree on using the most recent numbers. The updated numbers only recently became available. Using them will slightly change the revenue requirement numbers

² A copy of the updated response to PUC 5-7 is attached hereto as Exhibit 1 and incorporated by reference herein.

set forth in the Introduction, but will result in more accurate rate setting. Updated consumption numbers are attached hereto as Exhibit 2.

Mr. Woodcock agreed that PWSB's wholesale consumption for fiscal year 07 was down about 1,000,000 hcf, and that the retail consumption was also down about another 1,000,000 hcf. Mr. Woodcock agreed that the 2007 data should be included in the consumption calculation (using either a 4-year or 5-year average) because:

"it's more recent data, it's more telling data. I understand it means a higher rate for the wholesale customers, but I think it's fair and reasonable and I think it provides Providence the opportunity to get whatever it is the PUC allows for revenue here far more than using numbers that don't reflect that [FY07] reduction." (tr., 9/12/07, at 262-63.)

II. A NEW RESTRICTED ACCOUNT SHOULD BE ESTABLISHED FOR THE 3% UNION EMPLOYEE INCREASE

As Chief Marchand testified, PWSB has agreed to put the proposed 3% increase for union employees wages into a restricted account until the new contract is agreed to. If less than 3% is awarded, PWSB will leave the balance in the account for disposition by the PUC. (tr. 9/12/07, at 76.)

III. CONSERVATION NOTICES SHOULD BE SENT AND FUNDED

Conservation notices are to be sent once per year. (R.I.G.L. § 39-3-37.1) (tr. 9/12/07, at 126.) PWSB is prepared to send whatever form of conservation notice the PUC desires, provided the necessary funding is added to its rate request (See PWSB's PUC data response attached hereto as Exhibit 3 with the estimated costs). (tr. 9/12/07, at 124-126.)

IV. ALL PARTIES HAVE ACCEPTED THE DIVISION'S RESTRICTED ACCOUNT RECOMMENDATION FOR THE CRANSTON TAX REFUND

Mr. Catlin rejected PWSB's initial proposal to put the \$1.5 million Cranston tax refund into a reserve to pay future property tax litigation costs and/or larger than expected increases in tax bills. (Catlin Direct, at 2.) Instead, Mr. Catlin recommended that the entire refund be set aside in an

interest bearing restricted account and that \$375,000 per year be flowed back to the ratepayers as a reduction of PWSB's cost of service for each of the next three years. This should leave \$385,000 in principal (plus interest earned on the unrefunded and unspent balance) available to pay for the costs of continuing to contest property taxes. Based on an interest rate of 5%, this should provide PWSB with over \$500,000 to cover the costs of contesting property taxes over the next three years. (Catlin Direct, at 3.)

The amount spent on contesting property tax claims by PWSB in the last five years has been about \$550,000. But Mr. Catlin testified that such expenditures may increase in the coming years due to the Scituate tax litigation. (Catlin Direct, at 2-3.) He also recommended that the account be set up as a restricted account and that PWSB maintain detailed documentation of all expenses, which would be subject to annual review by the Division or in PWSB's next rate case, and that to the extent PWSB receives tax refunds or rebates from any other taxing authorities, that those amounts also be deposited into this account for disposition by the PUC. (Catlin Direct, at 3-4.) Through the testimony of Chief Marchand, PWSB accepted this proposal (tr. 9/12/07, at 54) and KCWA has not objected to it.

Hand-in-hand with this proposal is an adjustment to eliminate legal and engineering services for the tax challenges from A&G expenses because they will now be paid for through this restricted account. This results in a reduction of \$100,027, which Chief Marchand also accepted, provided the PUC accepts the Division's recommendation regarding the overall disposition of the \$1.5 million. As she testified, "it is critical that they are done in conjunction." She explained that the \$100,000 adjustment is for legal and engineering spent on tax cases, and that to date, over \$500,000 has been spent "and we're just starting." (tr. 9/12/07, at 55.) Chief Marchand explained that the Scituate tax case has only gone to court on the forest land issue and has not yet been finalized. The forest land case has been sent back to the Town Board of Assessment Review by the court for assessment of

forest land value. At some point, it will go back to Superior Court. Whoever loses there will take it to the Supreme Court. This will be a very expensive case and many millions are at stake. (tr. 9/12/07, at 55-56.) With regard to the property taxes on PWSB's non-forest land property and facilities in Scituate, the parties are currently about \$100 million apart and Chief Marchand sees that going to court as well, which will require expensive professionals to testify in those cases. (tr. 9/12/07, at 55-56.)

Jeanne Bondarevskis explained it was Providence's intent to only pay legal and professional tax litigation bills from November 1, 2007, forward from this account. (tr. 9/12/07, at 182-184.) She pointed out that in fiscal year 2007, PWSB had \$83,000 in legal bills, \$60,000 for appraisals, and \$158,000 for engineering analysis, but they have all been paid. (tr. 9/12/07, at 182-184.)

Mr. Catlin testified that:

"The Cranston refund demonstrated that the dollars are prudently spent because they were able to obtain a \$1.5 million settlement with the City of Cranston and the amount of property taxes at stake with Scituate is astounding. It's many times that. And it seemed to me to be reasonable to set aside money to allow them to . . . pursue that recovery with dollars that were won from this first property tax litigation rather than to put them in a position of being unable or concerned about spending the money to pursue the Scituate litigation." (tr. 9/12/07, at 214.)

V. PWSB'S OPERATING RESERVE SHOULD BE SET AT 3% AND SPLIT INTO TWO AREAS

Chief Marchand has proposed a 3% operating reserve allowance, to be set up as follows:

"An operating revenue allowance of 3 % on total projected operating expenses (less miscellaneous revenue) to be applied as follows:

1. Since PWSB's restricted accounts currently amount to 41.03% of total operating expenses (see WEE-1), the 3% operating revenue allowance times 40%, or 1.2% will be placed in a separate restricted account to cover shortfalls and allowed revenues in order to fund PWSB's restricted accounts.
2. The remainder of the 3% times 60%, or 1.8%, will be applied to fluctuations in expenses and shortfalls in allowed revenues for operating expenses." (Marchand Rebuttal, at 5.)

Both the Division and KCWA agree this proposal is fair and reasonable.

In her direct testimony, Ms. Marchand explained that (1) over 41% of PWSB's expense is in restricted funds, (2) salary and benefits are about 37%, and (3) another 11% is allocated to the payment of property taxes. This only leaves about 11% for all other services and materials. Therefore, there is very little that can be eliminated from operating expense without impairing the operation of PWSB when PWSB experiences below average consumption, as it did in fiscal year 2007, and ends up with lower than predicted revenue, or has unexpected expenses, as it did when it had an additional insurance expense of \$257,979 and lead notification expense of \$87,000 in fiscal year 2007. (Marchand Direct, at 8-9.)

PWSB believes the formula proposed is fair and workable. The Division and KCWA agree. Even though the PUC apparently plans to open a generic docket on this issue, a "one size fits all" formula may not work for all utilities. PWSB is the largest water utility in Rhode Island by a considerable margin, and PWSB believes this method is the most appropriate one to use for PWSB at this time. If necessary, the issue can be revisited in the generic docket, but an appropriate operating revenue at a workable level is needed right now.

For example, PWSB had a significant decrease in sales in 2007 (the interim year between the test year and the rate year) due to wet weather, which caused PWSB to have problems covering its costs and funding its restricted accounts. (tr. 9/12/07, at 57.) Updated consumption numbers for fiscal year 2007 show that water sales fell 4.7%, and this 4.7% drop in sales resulted in a revenue loss of more than \$2 million, which is considerably more than the \$837,481 the Division has proposed for an operating reserve, using its 1.5% approach. (tr. 9/12/07, at 62-63.)

As Commissioner Holbrook stated:

"There are four basic reasons why your cash flow is constantly under pressure. It's weather delay in implementation of rates, surprises and costs that exceed what has really been budgeted in the rate process. That being said, your operating reserve is supposed to allow a cushion so you can deal with these things . . . your proposal is to take it to three [percent], and if I understand the latest thought on that, you would be satisfied by dedicating 1.2 percent . . . to fund your restricted accounts leaving the

rest, 1.8 percent, to cover what it's always covered . . . which is surprises and excess in expenditures and maybe a little bit of bad luck with bad weather." (tr. 9/12/07, at 98-100.)

In response to Commissioner Holbrook's question as to why a larger reserve wasn't sought,

Ms. Marchand testified that:

"we're trying to work with something perhaps that would be acceptable to the Commission . . . a portion of it restricted, a portion of it, similar to what we have now, could still be used for unexpected expenses and for down turns in consumption, so what we're trying to do at this point is to provide something that we think might be attainable." (tr. 9/12/07, at 105.)

Mr. Catlin recommended that the current operating reserve of 1.5% be maintained solely based on his understanding of the PUC decision in Newport Water. However, he feels that PWSB's 3% proposal, which sets aside part of the operating reserve to fund restricted account shortfalls and the rest as a normal operating reserve "was one of the more reasonable proposals that I've seen from the water utilities . . ." (tr. 9/12/07, at 200-201.)

Mr. Woodcock's position is that "a much larger percentage operating revenue be allowed to water utilities within the State of Rhode Island." (tr. 9/13/07, at 104.) This is "a matter of having sufficient revenues." (tr. 9/13/07, at 104.) He believes that "the amount of monies that have been provided in past cases have been inadequate" and that "one-and-a-half percent of operating costs has not provided sufficient revenues to cover losses that are typically and routinely experienced by Rhode Island water utilities through variations in consumption." (tr. 9/13/07, at 104-105.) He used as an illustration PWSB's 4.7% drop in consumption in fiscal year 2007, which resulted in a loss of revenues of over \$2 million, a number far in excess of the \$837,481 recommended by the Division. (tr. 9/13/07, at 105.)

He also testified that over the last half dozen years, with some exceptions, there has been a general decline in consumption of water in the State of Rhode Island and that "it's critical that sufficient funding be provided in some sort of operating revenue reserve to cover those types of

expenses.” (tr. 9/13/07, at 105-106.) In addition, if conservation rates are adopted, there will be an even greater drop in consumption and revenues. (tr. 9/13/07, at 106.)

With regard to the splitting of the 3% as proposed by Chief Marchand in her testimony, Mr. Woodcock stated that:

“I think what has been proposed is exactly what should be done. I think a portion of it ought to be set aside discretionary for the utility to use for unforeseen changes and expenses . . . the remaining . . . set aside for revenue shortfalls.” (tr. 9/13/07, at 107-108.)

Mr. Woodcock suggested that since PWSB’s is the biggest water utility in the state, that this rate case could “substitute for the generic docket” because not only is PWSB, which services 600,000 people, involved in this docket, but the major wholesalers, including KCWA and Warwick, are also involved in this docket. (tr. 9/13/07, at 109-110.)

VI. ALL PARTIES AGREE THAT RETIREE HEALTH CARE REIMBURSEMENT IS APPROPRIATE

Jeanne Bondarevskis testified that PWSB accepts the Division’s reduced reimbursement of \$248,180 for six years for the monies owed to Providence, which is less than PWSB requested. KCWA also accepts the Division’s recommendation. (tr. 9/12/07, at 107-108.)

From some time before 1997 until 2006, PWSB did not pay the City for what the City was paying for health care for PWSB’s retired employees because the City was “paying our retirees’ healthcare and they were not charging us back for it.” (tr. 9/12/07, at 135.) Because Providence is self-insured, the charges are computed based on a working rate (also known as a “funding rate”) established by an expert consultant. (tr. 9/12/07, at 136.)

PWSB’s request is to reimburse only from 1997 to 2005 because PWSB reimbursed the City for fiscal year 2006, (tr. 9/12/07, at 139), and the City has agreed to waive collection of all costs incurred before 1997. (Bondarevskis Direct, at 7-8.) The amount was calculated by the City Controller, who:

“took the actual costs for fiscal years 2005 and 2004. They then discounted the costs back for fiscal years 2003 through 1997, based on the annual working rate increases provided by Cooke & Co., the City’s health care consultant.” (Bondarevskis Direct, at 7-8)

It is fair to pay this because “it was an expense that the City did bear.” (tr. 9/12/07, at 148), and this matter “first started coming to life during some of those meetings on getting ready for the GASB 43/45.” (tr. 9/12/07, at 149.) The City cut the reimbursement claim off at 1997 because the City did not have actual working rates prior to 1997. Actual working rates were available for each of the years for which reimbursement is being requested. (tr. 9/12/07, at 163.)

Mr. Catlin supports the reimbursement, because for municipal agencies:

“we’ve always set rates on a cash basis . . . so if they had an actual cash expense that they forgot to include because they simply weren’t aware of it, then it was my view that since we’ve always set costs on a cash basis and had they known about this expense, we presumably would have granted it since **it appears to be and in my judgment it was a legitimate expense** for the retirees . . . there’s no investor to go back to and say, your return suffers because you didn’t claim the expense.” (tr. 9/12/07, at 209-210, emphasis added.)

He also explained that:

“this was a case where there was an expense that we didn’t know about, we being all the parties in those [previous PWSB] cases, and I was in many of those cases and I went back through every one of my rate case files for PWSB’s to verify that I could find no place where those costs were included in the rates. I did that test. I tested from my own files participating in these cases to ensure that those retiree health care benefits weren’t included.” (tr. 9/12/07, at 211.)

Moreover, Mr. Catlin testified that “I can’t fault them—I mean, putting myself in their position I can understand how it happened.” (tr. 9/12/07, at 211.) Mr. Catlin concluded that he was of the opinion that repayment of the health care for retirees to the City was a “fair and reasonable thing to do.” (tr. 9/12/07, at 228.) Mr. Catlin also looked at PWSB’s request and made sure that the correct PWSB’s employees were included for the correct periods of time, and PWSB made the adjustments recommended by Mr. Catlin to satisfy him that the amount requested was appropriate. (tr. 9/12/07, at 230-231.)

VII. RETROACTIVE RATEMAKING DOES NOT APPLY
TO PUBLICLY OWNED WATER UTILITIES AND THE REIMBURSEMENT
IS A CURRENT EXPENSE IN ANY EVENT.

With regard to PWSB's reimbursement request, Mr. Catlin testified:

"If PWSB was an investor-owned utility, it would be my position that such recovery should be disallowed as retroactive ratemaking. However, given that PWSB is a municipal utility whose rates are set on a cash basis and recognizing the financial difficulty that the City of Providence, as well as other Rhode Island municipalities, face in dealing with GASB 43/45, I am not opposing recovery of the corrected amount owed the City of \$1,489,081.¹ However, I am proposing to amortize that balance over six years. This results in an annual expense of \$248,180 . . . this adjustment reduces rate year expenses by \$51,820." (Direct, at 9.)

¹In accepting this request, I have also considered that the City waived any claim for costs prior to 1997 and that PWSB has not sought recovery for 2006 amounts."

Mr. Catlin's analysis is in accordance with the rulings of the Supreme Court regarding retroactive ratemaking. For example, in *PWSB v. Malachowski*, 624 A.2d 305 (RI 1993), the Court unequivocally held:

". . . a publicly owned water authority is exempted from the ban on retroactive rate making normally applied to privately owned public utilities. See *O'Neil v. Malachowski*, 604 A.2d 1268 (R.I. 1992)." (at 312, fn1, emphasis added.)

An explanation is set forth in *O'Neil v. Malachowski*, 604 A.2d 1268 (RI 1992):

"This court has held in *Audubon Society of Rhode Island v. Malachowski*, 569 A.2d 1 (R.I. 1990), and *In re Woonsocket Water Department*, 538 A.2d 1011 (R.I. 1988), that the foregoing statute **exempts a publicly owned water authority or department from the ban on retroactive ratemaking normally applied in respect to privately owned public utilities.** This rule against retroactive ratemaking protects the public by ensuring that present customers do not pay for past revenue losses in their current payments. It prevents a privately owned company from employing future rates as a means of ensuring its stockholders' investments. *Providence Gas Co. v. Burke*, 475 A.2d 193, 196 (R.I. 1984); *Narragansett Electric Co. v. Burke*, 415 A.2d 177, 178-79 (R.I. 1980). **However, we stated unequivocally in *Audubon Society and Woonsocket Water Department* that the concern relating to privately owned companies does not apply to a publicly owned utility.** 'Those revenues that the water utility cannot recover from the users, the city provides through taxes, not voluntary investors. This diminishes the fairness argument.' *In re Woonsocket Water Department*, 538 A.2d at 1014-15. We went on to note that § 39-3-11.1(a) specifically provides for retroactive application. 538 A.2d at 1015." (at 1269, emphasis added.)

This exemption also applies “regardless of the water department’s reason for allowing the debt to accumulate for four years without taking curative steps. . . .” *In Re: Woonsocket Water Department*, 538 A.2d 1011, 1015 (R.I. 1988). Moreover, as stated by the Supreme Court in *Roberts v. Narragansett Electric*, 470 A.2d 215, 217 (R.I. 1984), even in for-profit utilities:

“The specter of retroactive ratemaking must not be viewed as a talismanic inhibition against the application of principles based upon equity and common sense.”

Retroactive ratemaking is a “judicially created rule,” is not a statutory prohibition, and “no rule should be blindly applied.” *Narragansett Electric v. Burke*, 415 A.2d 177, 178 (R.I. 1980).

Applying these principles, in *Kent County Water Authority v. State of Rhode Island*, 723 A.2d 1132 (R.I. 1999), the issue was payment of past-due, multi-year arrearages of license fees charged by the Department of Health (DOH) to Kent County Water Authority (KCWA). KCWA argued that payment of these past due fees would constitute retroactive ratemaking. The Supreme Court disagreed, ruling that KCWA “could have initiated a new rate filing with PUC that included the license-fee charges,” because “the mere fact that DOH has continued to demand payment from [KCWA] of these past-due, multi-year arrearages . . . does not constitute a coercion of petitioner into retroactive ratemaking.” (at 1137.)

Moreover, this newly-billed obligation, which only recently came to light, does not constitute a “retroactive” obligation, but is a **current** obligation owed by PWSB to the City. The City has paid these retiree health care costs, which were the legal responsibility of PWSB. It was an error that PWSB was not billed for the payments until recently. Once the error was pointed out and verified by PWSB, PWSB began making the payments (and has already paid \$330,613 for 2006).

In *Blackstone Valley Electric v. PUC*, 542 A.2d 242 (R.I. 1988), an analogous situation occurred. More coal was used to produce power than was initially recorded. When the error was discovered, the books were adjusted “to reflect the amount of coal actually burned” (at 243), and a

bill was rendered to BVE for \$354,722.49 “as its share of the fuel cost increase.” (*Id.*) BVE then sought PUC approval to pass this cost through to the ratepayers. The PUC approved this cost over the Division’s objection that it constituted retroactive ratemaking. The Supreme Court affirmed, and held that the delay in detecting the problem was not important:

“Even less significant in the chronology of this controversy are Montaup’s delays in detecting the coal deficiency and in adjusting its books and billings.” (at 244.)

The Court then ruled that:

“There is no question that Montaup charged Blackstone for the coal adjustment in its June 1986 fuel bill. **At that point, Montaup’s coal adjustment became of part of Blackstone’s current cost of fuel. . . . We therefore accept the coal assessment as a legitimate increase in Blackstone’s wholesale fuel cost.**” (at 244-255, emphasis added.)

The Court rejected the Division’s retroactive ratemaking argument, (even though a for-profit utility was involved):

“For almost one year even the managers at Montaup and the auditors at EUA were unaware of the moisture-content problem. In short, the situation that lead to the surcharge was an extraordinary event that is unlikely to recur.

* * *

After reviewing the record and the arguments presented, we conclude that the commission committed an error of law in failing to distinguish this controversy from cases that involve prohibited retroactive ratemaking.” (at 245.)

Accordingly, retroactive ratemaking is not an issue because (a) the rule against retroactive ratemaking does not apply to publicly owned water utilities, and (b) in any event, as the KCWA and BVE cases illustrate, this is a legitimate, unexpected current expense.

VIII. MR. WOODCOCK’S PROPOSED CITY SERVICES ADJUSTMENT OF \$333,415 IS UNSUPPORTED BY THE EVIDENCE

Based upon his detailed new model, David Bebyn initially recommended a city services allowance of \$1,245,952. (Schedule DGB-3). (Bebyn Direct, at 14.) This figure was slightly modified in the rebuttal testimony of Walter Edge, (Schedule WEE-R-1) by which certain adjustments of the Division and KCWA were accepted, bringing PWSB’s request down to

\$1,240,355. The Division has accepted this figure. Mr. Catlin testified that “I made an evaluation that the overall allocation factor that Mr. Bebyn . . . used was appropriate” (tr. 9/12/07, page 203.)

Mr. Bebyn met with representatives of the City, the PWSB Finance Department and other City departments to evaluate the appropriateness of the departments selected in the city services model. (Bebyn Direct, at 5.) (Bebyn Direct, at 5.)

“I reviewed the actual fiscal year expenses for each department to determine if any of the individual expense line items were inappropriate for allocation to PWSB. In addition, I reviewed the fiscal year 2007 budgeted employee positions to determine which employees provide service to PWSB. Lastly, I reviewed the non-departmental city expenses to determine if any of these expenses were or were not applicable for allocation to PWSB.” (Bebyn Direct, at 5.)

He interviewed department heads to determine exactly what level of service their department provided to PWSB. (Bebyn Direct, at 5.) He reviewed the city’s financial statement and compared it to PWSB’s financial statement to identify any duplication of services. (Bebyn Direct, at 5.) He performed a “detailed review of individual line items” in addition to his other work in preparing the city services model. (Bebyn Direct, at 6.)

Using the model in Docket 3163, the city services allocation would have been \$2,098,803. However, using his new model, he reduced the allocation to \$1,245,952 because his model “is more detailed, more conservative, and in general a better model that provides a better allocation of city services cost to PWSB.” (Bebyn Direct, at 6.)

Mr. Bebyn is a CPA who has been practicing for about 10 years and has done a number of audits. He testified that the kind of work that goes into doing a city services study is similar to audit work. (tr. 9/13/07, page 52.)

Mr. Woodcock is an engineer, not an accountant. Yet Mr. Woodcock arbitrarily cut a number of Mr. Bebyn’s allocators. There was no factual evidence to justify these significant reductions by Mr. Woodcock. (tr. 9/13/07, page 57-58.)

Mr. Bebyn had already made significant reductions. For example, using the Docket 3163 methodology, the Law Department allocation would have been approximately \$650,000. Mr. Bebyn reduced it to only \$40,000. (tr. 9/13/07, page 62.) In data processing, Mr. Bebyn found duplication, so he removed positions and reduced the figure from the previous methodology by about \$70,000. (tr. 9/13/07, page 63.) He reduced the Mayor's office by \$50,000 and the City Council by \$40,000. (tr. 9/13/07, page 63.) The Controller's office was reduced by \$50,000, the Purchasing Department by \$40,000, and the Personnel Department by \$35,000. (tr. 9/13/07, page 64.)

Mr. Woodcock agreed that Mr. Bebyn's city services analysis is "a very detailed and thoughtful analysis of the services provided by the City of Providence to the Water Supply Board" and that "for the most part, I agree with much of what Mr. Bebyn has recommended." (tr. 9/13/07, page 96.) Mr. Woodcock also conceded that, with regard to the specific questions Mr. McGair asked Mr. Bebyn, he would not have been able to answer those questions. (tr. 9/13/07, page 110-111.)

In addition, Mr. Woodcock conceded that he did not visit the City of Providence and he did not talk to people in the various departments as Mr. Bebyn did, nor did he go to those departments and review any documentation to determine what portion related to PWSB, as Mr. Bebyn did. (tr. 9/13/07, page 111.)

Mr. Woodcock also conceded that in his direct testimony, he used Mr. Bebyn's number of \$1,245,952 as the city services cost. (tr. 9/13/07, page 116.)

Mr. Woodcock conceded that the adjustments he made were to simply take a number of Mr. Bebyn's allocators and then essentially cut them in half and that this was simply a judgment on his part. (tr. 9/13/07, page 117-118, 122.) It was therefore not based on factual evidence and Mr.

Woodcock's "judgment" is not persuasive, or even admissible. Therefore, PWSB submits that Mr. Woodcock's proposed adjustment should be rejected.

IX. A 25% WHOLESALE SERVICE CHARGE IS FAIR AND REASONABLE
AND WOULD AID PWSB'S CASH FLOW BY INCREASING ITS FIXED INCOME %

Mr. Smith developed and proposed a 25% fixed wholesale charge, similar to the service charge that retail customers have paid for years. The Division agrees with this; KCWA does not. (tr. 9/13/07, at 166-167.)

Mr. Woodcock's position is that if the PUC provided "a reasonable operating reserve," it would take care of the problem that the fixed charge for wholesale customers is trying to solve. (tr. 9/13/07, at 255.) Mr. Woodcock agreed that PWSB's fixed expenses are currently about 85% and its variable expenses are only about 15%, yet its current income from rates is the exact opposite, with its income from rates being about 85% variable and only about 15% fixed. (tr. 9/13/07, at 263-264.)

Mr. Woodcock also agreed that if the PUC does not allow the 3% operating reserve, but goes back to the 1.5% operating reserve, that "I wouldn't be opposed to somewhat of an increase in the service charge to more closely reflect the cost." (tr. 9/13/07, at 265.)

Wholesale customers account for almost 50% of the volume of water sold by PWSB. Wholesale customers currently pay for consumption, with no service charge. Consumption spikes in the summer and drops the rest of the year. Under PWSB's proposal, approximately 25% of the projected usage of each wholesale customer would be shifted to a fixed rate to provide some revenue stability for PWSB. Mr. Woodcock has not provided any persuasive argument against this.

X. CONSUMPTION RATES SHOULD BEAR MORE OF THE PUBLIC FIRE PROTECTION COSTS IN ORDER TO HAVE TAX EXEMPT PROPERTIES PAY THEIR FAIR SHARE

Mr. Smith, in developing PWSB's public fire protection charge, reduced the "assumed fire demand" by 50%.³ He allocated the remaining 50% to the other ratepayers, essentially through consumption changes. This is fair and reasonable. (tr. 9/13/07, at 164-165.)

PWSB does not believe it is receiving revenues for public fire protection fairly and equitably due to the fact that a large number of properties within Providence and PWSB's other service areas are tax exempt, so they are not contributing their fair share of costs associated with public fire protection. (tr. 9/13/07, at 95.)

Although Mr. Mierzwa recommended against this, he was not aware that the communities served by PWSB, especially Providence, have a high percentage of tax exempt properties. (tr. 9/13/07, at 209.)

When Mr. Mierzwa was made aware of that, he agreed that if tax exempt institutions are not paying for fire hydrants through the property taxes, it would be reasonable for them to pay some share of the hydrant costs through their consumption rates. (tr. 9/13/07, at 209-210.)

PWSB believes that its request to shift a portion of hydrant costs to all ratepayers through consumption charges will more closely represent the true cost of service than the present situation, whereby taxpayers pay for the fire supply system, yet institutions that place a large fire demand on the system – the non-profits – pay little to nothing.

XI. EMPLOYEE PENSION AND BENEFIT COSTS SHOULD BE PROPERLY ALLOCATED, NOT ARTIFICIALLY ALLOCATED TO HOLD DOWN SERVICE CHARGES

The Division (Mr. Mierzwa) allocated employee pension and benefits entirely to base. Mr. Mierzwa did not allocate any of the other customer accounts to base. (tr. 9/13/07, at 207-208.) He

³ An assumed demand must be used because we never know how many fires we are going to have or how much water is going to be used to fight the fires. The assumed demand was taken from the last PWSB rate case and simply reduced by 50%.

did this because he thought this was what the PUC wanted through prior rate orders, because the PUC did not want to drive up the service charge. (tr. 9/13/07, at 208.) However, he agreed that if he was making this allocation in the way that was most appropriate, he would not have allocated them in this fashion; he would have allocated them based on wages. This would result in the cost being allocated to meters and services and billing and collection, which is the way that PWSB (Mr. Smith) has recommended this allocation be made. (tr. 9/13/07, at 208.) This would increase the service charge and decrease the consumption charge.

Mr. Woodcock agreed that simply following the prior PUC order “isn’t a proper reflection of costs” and that the approach taken by Mr. Smith, which Mr. Mierzwa agreed would be reasonable in the absence of the prior PUC order, “is a proper reflection.” (tr. 9/13/07, at 252.) Mr. Woodcock also agreed that doing it this way would increase the fixed charges and provide more fixed income to PWSB. (tr. 9/13/07, at 253-254.)

XII. UNACCOUNTED FOR WATER SHOULD BE ALLOCATED BASED ON INCH-MILES OF PIPE, AS IT HAS ALWAYS BEEN ALLOCATED.

PWSB (Mr. Smith) has used the traditional inch miles method of allocating unaccounted for water, as has the Division. Mr. Woodcock is advocating an entirely new approach which has never been used before in Rhode Island or elsewhere. (tr. 9/13/07, 166-167, 211.) Mr. Smith has done many rate design allocations and has never allocated unaccounted for water in the manner suggested by Mr. Woodcock because the method used by Mr. Smith (and approved by the Division) is the industry accepted method for allocating unaccounted for water. (tr. 9/13/07, 170.)

Mr. Woodcock referenced a paper, but Mr. Smith explained that this paper does not in any way discuss the allocation of unaccounted for water. Instead, it discusses ways in which utilities can determine an appropriate level of and reduce unaccounted for water. (tr. 9/13/07, 171-173.)

Mr. Mierzwa “used the Commission approved inch mile method,” not the method proposed by KCWA. (tr. 9/13/07, 211.)

Mr. Mierzwa has never seen unaccounted for water allocated in the way Mr. Woodcock has done it in any of the cases he has been involved in. (tr. 9/13/07, 219.) Mr. Mierzwa also testified that the unaccounted for water allocation method that he used “includes all water loss throughout the entire system, including at the service connections.” (tr. 9/13/07, 220.)

Mr. Woodcock agreed that the AWWA article he referenced in his testimony did not make any recommendation regarding how to allocate unaccounted for water for ratemaking purposes and that the article deals primarily with audits of lost or unaccounted for water and not allocation of unaccounted for water for rate making purposes. (tr. 9/13/07, 237-239.) Mr. Woodcock also admitted that in his direct testimony, he used essentially the same unaccounted for water method that PWSB and the Division used. (tr. 9/13/07, 246-247.)

XIII. THE PENSION “CATCH-UP” FOR PREVIOUS YEARS WAS DEALT WITH AND APPROVED BY THE PUC IN DOCKET 3446 AND SHOULD NOT BE REOPENED.

As Boyce Spinelli, Deputy General Manager for Administration of PWSB testified, he was the former Finance Director and Director of Administration for the City of Providence. When he moved from Providence to PWSB, he realized that the City had stopped paying 100% of the actuarial recommendations for pensions, but PWSB had continued to pay 100% for a number of years. This required a significant adjustment. PWSB proposed a specific adjustment in Docket 3446, whereby PWSB reduced its pension contributions, to the City for a period of time as a “catch-up.”

This matter was dealt with extensively in Docket 3446, which was concluded in 2002 by a PUC Report and Order. We submit that the matter is closed and can not be reopened. There have been no changes in circumstances, nor is there any new information regarding the pension situation.

Attached as collective Exhibit 4 to this Brief are excerpts from Docket 3446, which illustrate how extensively this matter was considered in Docket 3446. There was a 29-page Report and Order in that docket, of which the better part of seven pages in that Report and Order discussed this one

matter. There were two pages of direct testimony from Boyce Spinelli and four pages of direct testimony from Thomas Catlin discussing this matter.

It is also very important to note that Mr. Catlin's testimony makes it clear that the Division was aware that there were additional years when it was likely that PWSB's pension contributions were higher than the City's. Mr. Catlin testified on page 10 of his testimony that:

“it is likely that PWSB's pension contribution was consistently a higher percentage of its calculated contribution than the City's and the School Department's in years prior to FY 1999, as well.”

Mr. Catlin's testimony was followed by three pages of rebuttal testimony from Mr. Spinelli on this matter. In addition, there were both PUC and Division data requests on this matter, itemizing in detail the specific amounts involved. These included PWSB's responses, which specifically set forth the actual pension contributions separately for each year as compared to the actuarially calculated pension contributions for the years from 1992 to 2002 and demonstrated that for certain of those years, PWSB had not contributed in the same percentage as the City and the School Department. PWSB proposed a “catch-up” resolution which involved going back to 2001. That proposal was approved by this PUC. PWSB implemented it.

First, there is nothing in the PUC's Rules regarding reopening proceedings that would allow a reopening to occur. (See Rule 1.26 “Reopening Proceedings” attached as Exhibit 5). Second, there has been no change in circumstances regarding the pension contributions that would provide any basis for any reopening to occur. Third, the PUC had all of the information before it in Docket 3446 that it has before it today regarding payments going back to 1992. Fourth, the PUC approved PWSB's proposal with full knowledge of all the specifics of the situation, going back to 1992. Therefore, PWSB submits that it would be inappropriate and unreasonable for the PUC to reopen this matter five years after it was resolved.

CONCLUSION

Accordingly, PWSB respectfully submits that its reduced \$7,446,045 rate request be approved, as adjusted to reflect updated FY 2007 numbers, and using the rate design of Mr. Smith.

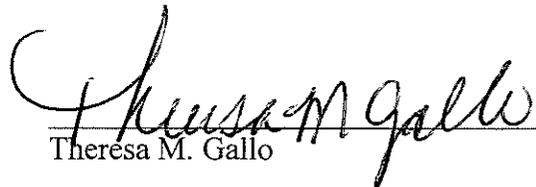
Respectfully submitted,
PROVIDENCE WATER SUPPLY BOARD
By its attorney



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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of October, 2006, I mailed a true copy of the foregoing by first class mail to the service list:



Theresa M. Gallo

PROVIDENCE WATER SUPPLY BOARD
Docket No. 3832

Updated Response to
Fifth Set of Data Requests from the Commission

Commission 5-7: In the rebuttal testimony of Mr. Smith, he agrees to a number of revisions affecting cost allocations in his cost of service study. However, Mr. Smith has not provided:

- a revised 'Allocation Factor Legend' (Schedule HJS Exhibit 5 in Mr. Smith's direct testimony);
- other revised exhibits replacing the original filing of Mr. Smith; and
- the proposed rates resulting from the changes in cost allocations/rate design.

If Mr. Smith has developed this data, please provide it. If this data has not been developed, please explain why, and when it will be presented to the Commission and parties.

Response: HJS Exhibits 1 Update through HJS Exhibit 14 Update are attached. Changes from the previously filed response to this data request are:

- The percentage allocations for HMC and HOC shown in HJS Exhibit 5 were erroneously reversed, this has been corrected and affects other Exhibits where those allocations were used.
- A reduction in property taxes of \$375,000 as a result of a refund of property taxes from the City of Cranston has been included, as shown in HJS Exhibit 4 Update.
- The allocation of Miscellaneous Revenues is now based on a more detailed allocation of individual revenues, as shown in HJS Exhibit 2 Update.
- Pension and Benefit expenses for Transmission & Distribution and Administration are allocated based on factors HMY and YY, respectively as I agreed to do in my rebuttal testimony as shown in HJS Exhibit 2 Update.

Based on my understanding of the testimony of Jerome Mierzwa, the following differences with respect to rate design remain between the position of the Division and the position of Providence Water as reflected in the attached schedules:

- I have allocated a portion of the demand related costs for fire protection to the retail volume charge.
- I have calculated allocation factors HM, HMC, and HOC by determining the percentage for each year for a three year period and averaging the percentages. Mr. Mierzwa determined the allocation factor by totaling all costs over a three year period and calculating the averages.

- I have allocated Fuel for Power Purchase using allocation factor NP instead of NO to be consistent with the allocation of Purchased Power.
- I have allocated Water Treatment accounts 60140 and 60440 based on factor AP, which is based on 95% of allocation factor AA and 5% of allocation factor NO. This change accounts for the 5% of costs in these accounts that are used to support pumping. Mr. Mierzwa allocates these based on allocation factor AA.
- I have allocated Pension and Benefit costs for Customer Accounts using allocation factor D instead of DY.
- I have allocated account 65870 in the Insurance Fund using allocation factor Com Y instead of YY, consistent with previous rate filings.
- I have allocated Western Cranston Fund capital costs using allocation factor TD instead of A to recognize that these are retail only costs.

Based on my understanding of the testimony of Christopher Woodcock, the following differences with respect to rate design remain between the position of the KCWA and the position of Providence Water as reflected in the attached schedules:

- I have allocated a portion of the demand related costs for fire protection to the retail volume charge.
- I have allocated 25% of the wholesale customers' allocated cost of service to a monthly base charge.
- I have allocated unaccounted for water based on inch-miles of pipe, consistent with the methodology used in previous filings and the Exhibits included in Mr. Woodcock's direct testimony.
- I have allocated Pension and Benefit costs for Customer Accounts using allocation factor D instead of DY.
- I have allocated account 65870 in the Insurance Fund using allocation factor Com Y instead of YY, consistent with previous rate filings.

Prepared by: Harold J. Smith, September 11, 2007

Providence Water
Water Sales (hcf)

	<u>FYE 97</u>	<u>FYE 98</u>	<u>FYE 99</u>	<u>FYE 00</u>	<u>FYE 01</u>	<u>FYE 02</u>	<u>FYE 03</u>	<u>FYE 04</u>	<u>FYE 05</u>	<u>FYE 06</u>	<u>FYE 07</u>	Unaudited
<u>Wholesale</u>												
East Providence	2,646,618	2,801,226	2,639,219	2,446,455	2,445,707	2,346,770	2,493,285	2,347,620	2,414,642	2,336,430	2,219,211	
East Smithfield	376,419	359,094	352,437	346,859	352,643	333,442	346,036	349,221	347,134	316,751	311,203	
Greenville	419,699	446,986	397,665	461,908	442,520	445,396	470,702	428,017	470,107	483,676	483,730	
Kent County	3,341,208	3,290,592	3,285,936	3,276,576	3,262,932	3,532,443	3,529,317	3,857,756	3,915,227	3,806,377	3,699,225	
Smithfield	349,737	398,764	412,072	421,404	452,268	447,447	433,016	425,587	434,665	421,925	424,238	
Warwick	4,703,495	4,413,832	4,456,795	4,828,433	4,938,345	4,372,840	4,654,592	4,292,842	4,313,222	4,357,620	3,869,318	
Lincoln	1,101,179	1,039,151	1,011,352	1,041,247	1,037,210	1,047,007	1,059,985	1,027,574	1,108,820	1,150,294	1,134,532	
Cranston (Western)	509,104	0	0	0	0	0	0	0	0	0	0	
Johnston	126,267	247,481	328,499	298,382	272,531	199,022	163,387	156,251	180,321	290,227	346,377	
Bristol County	0	0	322,537	667,993	624,460	1,350,122	1,892,471	1,942,031	1,803,583	1,633,316	1,295,416	
Narr. Bay Comm	0	0	0	0	0	0	0	0	0	84,978	0	
Total Wholesale	13,572,726	12,995,126	13,206,512	13,779,257	13,828,616	14,074,489	15,042,791	14,826,899	14,987,720	14,881,594	13,783,250	
<u>Retail</u>												
Residential	9,870,436	11,387,989	9,851,691	10,940,406	9,541,287	11,946,454	12,203,733	12,030,853	11,242,268	11,277,137	10,579,927	
Commercial	2,131,209	4,489,639	4,538,279	5,244,331	4,613,123	2,308,845	2,206,004	2,356,680	2,956,479	3,889,047	3,930,747	
Industrial	2,100,378	1,318,754	1,193,317	1,066,388	715,676	1,049,987	1,000,891	877,656	1,050,937	1,091,953	828,155	
Sub-total Retail	14,102,023	17,196,382	15,583,287	17,251,123	15,070,088	15,305,286	15,410,628	15,265,189	16,249,684	16,258,137	15,338,829	
Total Consumption	27,674,749	30,191,508	28,789,799	31,030,380	28,898,702	29,379,775	30,453,419	30,092,088	30,237,405	31,139,731	29,122,079	

For Docket 3832 Div 1-5 REVISED with FY 2007 consumptions

PROVIDENCE WATER SUPPLY BOARD
Docket No. 3832
Data Requests of the Public Utilities Commission
Record Request 9/12/07

3. With regard to RIGL 39-3-37.1 Conservation notice on water bills, how much would a one page notice cost to send with the water bills or in a separate mailing ?

Answer: Please see attached quotes from our printer vendor, Document Technologies. Provided are price quotes for a one page notice and for an AWWA brochure.

Water Conservation				
Quantity	Description	Unit Cost	Per Thousand	Total Cost
Option 1. - Insert into existing Bills				
72,000	8 1/2 x 11 - (1/0) Black includes 60# paper, folding and inserting into existing bills overweight postage would not apply with this insert only	0.0280	28/M	2,016.00
72,000	8 1/2 x 11 - (2/0) 2 Colors Front side includes 60# paper, folding and inserting into exiting bills overweight postage would not apply with this insert only	0.0379	37.90/M	2,728.80

American Water Works Brochure

Quantity	Description	Unit Cost	Per Thousand	Total Cost
Option 1 - Insert into existing bills				
72,000	8 1/2 x 11 4 colors/4 colors includes 70# opaque paper, folding and inserting into exiting bills overweight postage would not apply with this insert only	0.0670	67.00/M	4,824.00
Option 2 - Separate Mailing				
72,000	Data Process - 1st class presort	0.0180	18/M	1,296.00
72,000	8 1/2 x 11 4 colors/4 colors includes 70# opaque paper, folding and inserting into exiting bills overweight postage would not apply with this insert only	0.0670	67/M	4,824.00
72,000	Ink Jet	0.0250	25/M	1,800.00
72,000	#10 Close Face Envelope	0.0280	28/M	2,016.00
72,000	Insert/Mail	0.0300	30/M	2,160.00
	Total			\$ 12,096.00
72,000	Estimated Postage - First Class	0.3120		22,464.00
72,000	Estimated Postage - Standard	0.1760		12,672.00

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PROVIDENCE WATER SUPPLY :
BOARD'S ABBREVIATED RATE FILING : DOCKET NO. 3446

REPORT AND ORDER

I. Introduction

On July 1, 2002, Providence Water Supply Board ("Providence Water") made an abbreviated rate filing with the Public Utilities Commission ("Commission"). The abbreviated rate filing, if approved, would result in an overall increase of 12.99 percent, increasing rates across-the-board by 13.38 percent, for a total revenue requirement of \$47,401,320, an increase of \$5,448,798. The effect on a typical residential customer using 75,000 gallons of water per year would be a rate increase of \$27 per year, or approximately \$7 per quarter. Providence Water requested an effective date of July 31, 2002.¹ On July 18, 2002, the Commission suspended the filing. On July 15, 2002, Kent County Water Authority ("KCWA") filed a Motion to Intervene based on its status as a wholesale purchaser of water from Providence Water. No objection was filed and the Motion was granted in accordance with Rule 1.13(e) of the Commission's Rules of Practice and Procedure.

This is Providence Water's third request for rate adjustments in the past three years. A brief history follows:

Docket No.	Filing Date	Effective Date	Increase Requested	Increase Allowed
3163	6/30/00	1/1/01	\$5,416,622	\$2,813,974
2961	6/30/99	2/1/00	\$2,549,504	\$2,073,709

would provide over two years of rate relief to consumer before it would become necessary to request full funding from rates.³

Turning specifically to property taxes, Mr. Spinelli indicated that due to a property revaluation by the Town of Scituate, Providence Water's tax bill from Scituate for the period January 1, 2001 through December 31, 2001, increased by more than \$900,000. Scituate has appealed the valuation of its property, specifically with regard to property it believes should be deemed forest land for tax purposes. However, during the pendency of the appeal, Providence Water must continue to pay the amounts billed.⁴

Regarding Providence Water's contributions to the City of Providence's Employees Retirement System, Mr. Spinelli testified that in order to be aligned with contributions by the City of Providence ("City of Providence" or "City") and by the School Department, Providence Water is requesting an increase of \$1,372,378. He testified that in the past, Providence Water was contributing 100 percent of its actuarially recommended contribution while the City and the School Department were contributing less than their respective recommended contributions. Therefore, in 2001 and 2002, Providence Water contributed percentages in line with the City and the School Department and will continue to do so in the future, with its contribution for fiscal year 2003 totaling 80 percent of the recommended amount, or \$1,922,387.⁵

Ms. Bondarevskis provided pre-filed testimony to address the financial requirements and adjustments made to Providence Water's revenue requirements. She testified that Providence Water is not seeking adjustments for debt service, chemicals,

² Providence Water Exhibit 1A (Pre-filed testimony of Boyce Spinelli), p. 2.

³ Id. at 3.

⁴ Id. at 4-5.

⁵ Id. at 5-6.

arguing that only \$3,715,924 of Providence Water's request could be justified, resulting in a 9.04 percent increase in rate year revenues.¹⁸

Mr. Catlin made adjustments to Providence Water's estimates of rate year sales and revenue. The results of updating the number of water and fire service customers are small increases in the revenue from retail service charges, private fire protection service charges and public fire hydrant charges. Updating wholesale water sales results in a small reduction in estimated sales. Finally, because Bristol County Water has expanded the upgrade to its water treatment plant, Mr. Catlin included additional sales volumes to Bristol County Water for the first six months of the rate year based on the increase in sales experienced during the first six months of 2002. As a result of his rate year sales estimate, Mr. Catlin adjusted rate year revenues upward by \$377,897.¹⁹

Mr. Catlin next addressed Providence Water's salaries and wages. He noted that Providence Water had adjusted its salary and wage requirements to account for an overall increase of 8.16 percent in accordance with union contracts. However, Mr. Catlin argued that only half of the annual effect of the wage increase scheduled for July 1, 2003 should be included in the rate year calculation due to the fact that the increase will only be in effect for half of the rate year. Mr. Catlin's resulting adjustment was a \$231,970 reduction from Providence Water's calculation of salary and wage expense.²⁰

Addressing Providence Water's pension expenses, Mr. Catlin recommended that the Commission approve an allowance for pension funding equal to 60 percent of the actuarially recommended contribution for 2003. According to Mr. Catlin, this is based on

¹⁸ Division Exhibit 1 (Pre-filed testimony of Thomas Catlin), pp. 3-4, Schedules TSC-1, TSC-2. Mr. Catlin indicated that in developing the rate increase, he included an operating reserve of 1.5% as previously approved in Docket Nos. 2304, 2961 and 3163. *Id.*

¹⁹ *Id.* at 5-6, Schedule TSC-3.

the percentage of the actuary's recommended pension contribution which has been made by the City, School Board and Providence Water over the four years from fiscal year 1999 through fiscal year 2002. Mr. Catlin's resulting adjustment is a \$480,595 reduction from Providence Water's proposal. Mr. Catlin noted that Providence Water was basing its request on 80 percent of the actuary's recommended contribution based on a belief that the City and the School Department would match that amount. However, given the City of Providence's financial situation, Mr. Catlin believed that the City and the School Department would not meet the 80 percent calculation and further opined that a 60 percent contribution by Providence Water would put it in line with the City and School Department. Finally, Mr. Catlin recommended that no matter what amount the Commission allows Providence Water to collect in rates for pension contributions, Providence Water be directed to contribute a percentage of the actuary's recommendation no greater than that contributed by the City and the School Department.²¹

Adjustments to employee benefit costs other than pensions that had been included by Providence Water for three items affected the FICA taxes and "½% wage assignment" expense, with reductions to reflect Mr. Catlin's downward adjustment to salaries and wages. He also adjusted the employer contribution to training expenses, specified by the union contract, basing it on an agreement by Providence Water that the calculation should be based on the average of the funding rates effective on July 1, 2002 and July 1, 2003. This adjustment reduces the rate year expenses by \$26,632.²²

Next, Mr. Catlin explained his rate year adjustments related to the wages and benefits chargeable to Providence Water's IFR and capital improvement project ("CIP")

²⁰ *Id.* at 6-7.

²¹ *Id.* at 8-11.

expenses. Therefore, she argued in favor of utilizing a four-year average in assessing the water usage, to include the unusually high, temporary usage of Bristol County Water, but averaged against the typical usage in order to set a wholesale rate that can be in effect for more than a single year.

Regarding Mr. Catlin's downward adjustments to IFR and CIP wages for three employees, Ms. Bondarevskis explained that in Order No. 16552, the Commission had allowed Providence Water to hire three employees to do the work that Providence Water would ordinarily hire consultants to perform. Providence Water was allowed to fund the positions from the IFR and CIP accounts on a trial basis to determine whether Providence Water's assertion that such a plan would save money could be proven. Ms. Bondarevskis indicated that the three employees were never hired, consultant fees were not reduced and as such, Providence Water's cost of service has not been reduced. In fact, Providence Water has been working to fill four engineering positions, including three to be paid from the IFR and CIP accounts.

Addressing Mr. Catlin's position on the pension contribution, Mr. Spinelli argued that Providence Water requested pension funding at 80 percent of the actuary's recommendation because the City of Providence is definitely contributing 80 percent. Mr. Spinelli argued that Providence Water does not have the discretion to unilaterally contribute at a rate different from the 80 percent rate of the City. Providence Water's previous reduction in its contribution was approved by the City after Providence Water made the case to the City that it should be at parity with the City and the School Department.³⁹

Addressing the derivation of the amount, Mr. Catlin testified that the parties looked at the amount of growth in operating labor since the last rate case and accounted for the labor plus 45 percent of benefits associated with that labor. According to Mr. Catlin, the total amount of capitalized labor is approximately \$900,000 per year as compared to approximately \$600,000 in the last rate case.⁵¹ Therefore, taking the growth in labor and accounting for the benefits associated with that labor, the amount that is taken from rates is limited to the amount at the level of the last rate case adjusted for wage increases.⁵² Finally, Providence Water and the Division agreed that the funds used for capitalized labor should only be taken from current funds as opposed to bond proceeds.⁵³

C. Pension Funding Levels

The parties agreed to Providence Water's original request for \$1.922 million for its pension contribution. The purpose of the provision was to allow Providence Water to match the percentage contributions by the City of Providence and the School Department. However, if the amount of Providence Water's contribution falls below 10 percent of the amount allowed, the parties proposed that Providence Water will notify the Commission and Division.

In response to questioning from the bench why the pension contribution should not be placed into a restricted account, Providence Water indicated a desire for flexibility in the event the pension contribution is lower than allowed and there is a need for the funds in other areas of operations. Mr. Catlin explained that a restricted account

⁵¹ Providence Water estimated that 20 positions would be affected by this provision. *Id.* at 88.

⁵² *Id.* at 41-43.

⁵³ *Id.* at 47-50. According to Ms. Bondarevskis, most of the capitalized labor is IFR related and as such, would come out of pay-as-you-go IFR funds regardless. *Id.* at 47-49.

normally has a specific amount attached to it and would provide Providence Water with no flexibility to adjust the amount contributed in the event it goes above or below the \$1.922 million allowed. For example, if the contribution is actually \$2.1 million, Providence Water will have a shortfall in the account to be made up by ratepayers in a future case. On the other hand, for example, if the pension contribution goes down and property taxes go up, Providence Water will not have the flexibility to use the remaining pension funds for property taxes. Therefore, there was hesitancy on the part of the parties to designate the pension fund as a restricted account. In an attempt to fully respond to Commission concerns, Providence Water agreed that if its annual contribution is below the \$1.922 million allowed from rates, it will deposit the difference into a restricted account to be used for future pension contributions, provided, however, that Providence Water needs these funds for another purpose, it may petition the Commission to use those funds for that purpose, even if a year had passed since an Order was issued.⁵⁴

D. Scituate Property Taxes

At the hearing, Providence Water agreed to put any refunds from the disputed property tax assessments from Town of Scituate into a restricted account.

E. Alternative Source Supply Funding

Addressing the additional funds and extended study time proposed in the Settlement for the Alternative Source Supply Study, the parties explained that further evaluation is necessary in light of the new security concerns resulting from the September 11, 2001 events. Additionally, funding for the Study is shared by the Rhode Island Water Resources Board, so Mr. Catlin opined that he believed there is a check and balance on

⁵⁴ *Id.* at 75-86. Commission Rule of Practice and Procedure 1.28(c) limits a party to one year from the issuance of an Order to petition for relief from that Order under circumstances set forth in Rule 1.28(b).

capitalized labor. This shall be included as a separate line item in Providence Water's semi-annual reporting requirement.

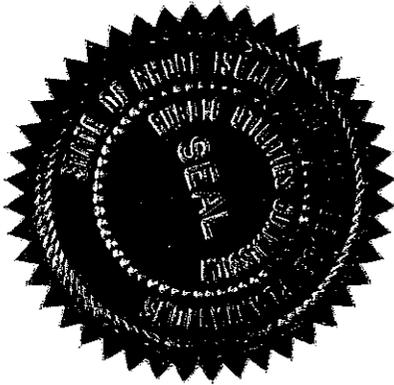
C. Pension Funding

The Commission finds the reasoning provided by Providence Water and the Division as to why the pension fund should not be restricted to be reasonable. However, the Commission finds that in the event Providence Water's contribution in any given year is substantially less than that approved in rates, the excess funds should be set aside to be used for future pension contributions. More specifically, in the event Providence Water is required to make a substantially lower pension contribution (10 percent or more below the approved funding level) in any given year, it must restrict the funds representing the difference and should use those funds to fund future pension contributions. However, notwithstanding the one-year rule set forth in Commission Rule 1.28(c), Providence Water may, at any time, file a request with this Commission seeking permission to use all or any portion of such excess funds for a purpose other than the funding of future pension contributions and the Commission will consider and rule upon said request as expeditiously as possible. In making such a request, the burden shall be upon Providence Water to demonstrate why the excess pension funds should be allowed to be used for a purpose other than funding future pension contributions.

D. Property Taxes

With regard to the property tax dispute between Providence Water and the Town of Scituate, Providence Water is directed to notify the Commission of any property tax refund and to maintain these funds in a restricted account until such time as the Commission rules on how the money should best be returned to ratepayers.

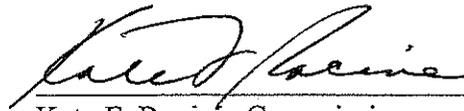
EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO AN OPEN
MEETING DECISION ON DECEMBER 4, 2002. WRITTEN ORDER ISSUED
JANUARY 23, 2003.



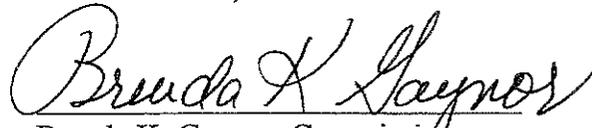
PUBLIC UTILITIES COMMISSION



Elia Germani, Chairman



Kate F. Racine, Commissioner



Brenda K. Gaynor, Commissioner

TESTIMONY
of
BOYCE SPINELLI
before the
PUBLIC UTILITIES COMMISSION

FOR AN
ABBREVIATED FILING

for
PROVIDENCE WATER

June 2002

**PROVIDENCE WATER SUPPLY BOARD
TESTIMONY OF
BOYCE SPINELLI**

1 amount of the tax bill.

2
3 Q. What is the major category of increased fringe benefit
4 cost, and why?

5
6 A. The major category of increased fringe benefit cost is
7 the contribution by Providence Water to the Employees
8 Retirement System of the City of Providence. There is an
9 increase of \$1,372,378, from \$550,000 to \$1,922,378.

10
11 The reason for the increase is that in fiscal years ended
12 June 30, 2001, and June 30, 2002, it was necessary for
13 Providence Water to substantially lower the actuarially
14 recommended contribution into the Retirement System.

15
16 For the three year period, FY 99-01, the City of
17 Providence and the City of Providence School Department
18 contributed 56.35% of the actuarially calculated amount
19 of \$101,331,000, or \$57,104,423. Providence Water, on
20 the other hand, was contributing 100% of its actuarially
21 recommended contribution.

22
23 As a result, Providence Water was paying more than its
24 fair share. There is no advantage to Providence Water in
25 doing so, as it receives no extra credit in the
26 Retirement System for paying more than its fair share,
27 nor does this reduce future required contributions.
28 Additionally, Providence Water participants in the
29 Retirement System are not entitled to preferential
30 treatment vis-a-vis City and School participants in the
31 event of a system-wide funding problem, despite paying

**PROVIDENCE WATER SUPPLY BOARD
TESTIMONY OF
BOYCE SPINELLI**

1 100% of its actuarial calculation. Finally, paying more
2 than its fair share is tantamount to subsidizing the
3 general fund of the City of Providence, which is clearly
4 prohibited.

5
6 To bring its retirement contribution in line with the
7 City and School Department, Providence Water lowered its
8 FY 2001 contribution from the budgeted \$2.1 million to
9 \$600,000. In FY 2002, Providence Water contributed
10 \$500,000. As a result of these reduced contributions for
11 FY 2001 and FY 2002, Providence Water is now on the same
12 payment basis as the City of Providence and the School
13 Department. On a going-forward basis, Providence Water
14 will always contribute the exact same percentage of the
15 actuarial calculation as does the City of Providence and
16 the School Department. In FY 2003, the City and the
17 School Department plan to contribute 80% of the actuarial
18 amount, gradually phasing in to 100%. Providence Water
19 will also contribute 80%, which amounts to the \$1,922,387
20 requested in the filing.

21
22 **Q. Does this conclude your testimony?**

A. Yes.

Pension Expense

1
2 Q. PLEASE BRIEFLY SUMMARIZE PWSB'S REQUEST WITH REGARD TO
3 PENSION EXPENSE.

4 A. For the test year, PWSB contributed \$550,000 to the City Retirement Fund for employee
5 pension. For the rate year, PWSB is seeking approval for a pension contribution of
6 \$1,922,378.

7 Q. WHAT IS THE CAUSE OF THIS SUBSTANTIAL INCREASE?

8 A. For FY 2001 and FY 2002, the actuary for the pension plan recommended contributions
9 of \$2,158,542 and \$2,530,159, respectively, for PWSB. However, PWSB's actual
10 contributions were \$600,000 and \$500,000 for those two years. According to PWSB
11 witness Boyce Spinelli, PWSB substantially reduced its pension contributions to put its
12 contributions on the same basis as the remainder of the City of Providence and its School
13 Department. Mr. Spinelli indicates that, prospectively, PWSB will limit its pension
14 contribution to the same percentage of the actuary's calculation as the City and the
15 School Department. For the fiscal year ending June 30, 2003, Mr. Spinelli has indicated
16 that the City and School Department plan to contribute 80 percent of the actuarial amount
17 as they phase up to making 100 percent of the recommended contributions. PWSB's
18 claim of \$1,922,378 is based on 80 percent of its recommended contribution for FY 2003.

19 Q. HOW DO PWSB'S CONTRIBUTIONS TO THE PENSION FUND IN FY 2001
20 AND FY 2002 COMPARE TO THE AMOUNTS ALLOWED IN RATES?

21 A. In Docket No. 2961, which approved rates which were in effect from February 1, 2000
22 through December 31, 2000 (thus covering the first half of FY 2001), PWSB requested
23 and the Commission approved an allowance for pension expense of \$1,899,212. In
24 Docket No. 3163, PWSB requested and the Commission approved an allowance for

1 pension expense of \$2,158,542. The rates in Docket No. 3163 took effect on January 1,
2 2001.

3 Q. DID PWSB REDUCE THE AMOUNT WHICH IT CONTRIBUTED TO THE
4 PENSION FUND PRIOR TO FY 2001 AND FY 2002?

5 A. No. According to Mr. Spinelli and as shown in the response to Commission Data
6 Request Set 1, No. 1 (Commission 1-1), PWSB contributed 100 percent of the actuarially
7 recommended contribution in the three years prior to FY 2001. However, the City of
8 Providence and the School Department's contributions were well below the actuary's
9 recommendation both prior to FY 2001 and in FY 2001 and FY 2002.

10 Q. WHAT IS YOUR RECOMMENDATIONS WITH REGARD TO THE
11 APPROPRIATE ALLOWANCE FOR PENSION EXPENSE?

12 A. It is my recommendation that the Commission approve an allowance for pension funding
13 in this proceeding equal to 60 percent of the actuarially recommended contribution of
14 \$2,402,972 for FY 2003. This 60 percent funding allowance which I am recommending
15 is based on the percentage of the actuary's recommended pension contribution which has
16 been made by the City, School Board and PWSB over the four years from FY 1999
17 through FY 2002. As shown on Schedule TSC-5, setting pension expense at 60 percent
18 of the actuary's recommendation for FY 2003 results in a pension allowance of
19 \$1,441,783. This represents a reduction of \$480,595 compared to PWSB's proposed
20 pension expense.

21 Q. WHAT IS THE BASIS FOR YOUR RECOMMENDATION?

22 A. PWSB set its proposed pension contribution equal to 80 percent of the actuary's
23 recommendation based on the expectation that the City and the School Department would
24 also contribute 80 percent of their actuarially determined pension obligations. However,
25 it is my understanding that the City of Providence is facing a significant budget deficit.

1 Given that there is no required minimum annual contribution to the retirement fund, it is
2 reasonable to expect that this is one area where expenditures will be cut to reduce the
3 budget deficit. Hence, reducing the allowance included in PWSB's rates to 60 percent of
4 the actuary's recommendation is likely to still allow PWSB to match the percentage
5 contributions of the City and the School Department.

6 In addition, the response to Commission 2-1 indicates that the reduced contributions
7 made by PWSB in FY 2001 and FY 2000 brought PWSB's pension contributions to a
8 percentage level comparable to the City's and the School Board's over the four-year
9 period from FY 1999 through FY 2002. Not taken into consideration is that it is likely
10 that PWSB's pension contribution was consistently a higher percentage of its calculated
11 contribution than the City's and the School Department's in years prior to FY 1999, as
12 well.¹ Hence, if PWSB's percentage contribution falls below that of the City and the
13 School Department for a year to two, it would not be unreasonable.

14 Q. DO YOU HAVE ANY ADDITIONAL RECOMMENDATIONS WITH REGARD
15 TO PWSB'S PENSION CONTRIBUTIONS?

16 A. Yes. As noted previously, Mr. Spinelli has stated that it is PWSB's intent to fund
17 pensions at the same percentage of the actuarial recommendation as the City and School
18 Department. It is my recommendation that the Commission explicitly direct PWSB in its
19 order to limit its pension contribution to a percentage of the actuary's recommendation no
20 greater than the City and the School Department.

21 In addition, it is reasonable to expect that pension contributions will increase
22 prospectively. This is both because the actuary's recommendation is likely to increase
23 and because the percentage contributions will need to increase toward 100 percent of the
24 recommended amount. To the extent the amount increases significantly and additional

¹ Responses to DIV 1-1 through 1-4 which sought information regarding historical funding levels were not received prior to the preparation of this testimony.

1 revenue is needed to meet its funding requirement, PWSB has the ability to seek rate
2 relief through an abbreviated rate filing or a full rate case. However, if the actual
3 contributions fall significantly below the amount included in the cost of service used to
4 set rates as occurred in FY 2001 and FY 2002, there is currently no mechanism to address
5 such an occurrence. Accordingly, it is also my recommendation that the Commission
6 order PWSB to notify the Commission and the Division if the actual pension contribution
7 for any fiscal year is expected to be more than 10 percent below the ratemaking
8 allowance in PWSB's most recent rate case. In PWSB's next rate case following such an
9 occurrence, PWSB should be required to demonstrate why any reduction in the funding
10 below the allowed amount should not be set aside to fund future pension contributions.

11
12 **Other Employee Benefit Costs**

13 Q. PLEASE EXPLAIN YOUR ADJUSTMENT TO EMPLOYEE BENEFIT COSTS
14 OTHER THAN PENSIONS.

15 A. In its filing, PWSB has adjusted employee benefits expense to reflect changes in the costs
16 of those benefits from the test year to the rate year. I am proposing to make changes to
17 the costs included for three items. For two items, FICA taxes and the "½ % wage
18 assignment" expense, I have reduced the expense claimed by PWSB to reflect my
19 downward adjustment to salaries and wages. That is, PWSB increased both of these
20 expenses to reflect an 8.16 percent overall increase based on the compound effect of the
21 four percent salary increases on July 1, 2002 and July 1, 2003 included in its filing.
22 Consistent with my proposal to recognize the July 1, 2003 increase as being in effect for
23 only one-half of the rate year, I have adjusted FICA taxes and the ½ % wage assignment
24 expense to reflect only a 6.08 percent overall wage increase.

REBUTTAL
TESTIMONY
of
BOYCE SPINELLI
before the
PUBLIC UTILITIES COMMISSION

FOR

AN ABBREVIATED FILING

for

PROVIDENCE WATER

October, 2002

PROVIDENCE WATER SUPPLY BOARD
REBUTTAL TESTIMONY OF
BOYCE SPINELLI

1 Q. Please state your full name and title.

2 A. Boyce Spinelli, Deputy General Manager - Administration
3 of the Providence Water Supply Board (Providence Water).

4
5 Q. Have you reviewed the testimony of Thomas Catlin
6 regarding pension contributions, and would you comment on
7 it?

8
9 A. Yes. Mr. Catlin is correct in stating that over the four
10 year period from FY 1999 through FY 2002, the City, the
11 School Board, and Providence Water contributed
12 approximately 60% of the actuary's recommended pension
13 contribution.

14
15 As Mr. Catlin noted in his testimony, it was necessary
16 for Providence Water to significantly lower its
17 contribution in FY 2001 and FY 2002 to ensure that
18 Providence Water was in fact contributing on the same
19 basis as the City and the School Department.

20
21 I believe that it is essential that the City, the School
22 Department, and Providence Water contribute on the same
23 basis. Otherwise, Providence Water would be subsidizing
24 the general fund of the City of Providence, and vice
25 versa. Neither situation is acceptable, nor would it be
26 equitable to Providence Water's ratepayers or City
27 taxpayers.

PROVIDENCE WATER SUPPLY BOARD
REBUTTAL TESTIMONY OF
BOYCE SPINELLI

1 Q. Do you agree with Mr. Catlin's recommendation that the
2 pension allowance in this docket be reduced to 60% of the
3 actuary recommended amount?
4

5 A. No. Providence Water requested pension funding in this
6 filing at 80% of the actuary's recommended contribution
7 because the City of Providence is definitely contributing
8 80% of the actuary's recommended amount in the fiscal
9 year ending June 30, 2003. Although Mr. Catlin is
10 correct in stating that there is no required minimum
11 annual contribution, the City of Providence is precluded
12 from contributing to the retirement fund an amount less
13 than the retirement contribution appropriation provided
14 for in the annual budget. (Please refer to Exhibit I -
15 Section 809 of the Providence Home Rule Charter).
16 Furthermore the retirement contribution appropriation is
17 80.37% of the actuary's recommendation. (Please refer to
18 Exhibit II - Retirement Contribution Appropriation, and
19 Exhibit III - Actuary Recommendation for City of
20 Providence General Fund). It is also noteworthy that the
21 City of Providence is required to adopt a balanced budget
22 each fiscal year. (Please refer to Exhibit IV - Sections
23 803 and 805 of the Providence Home Rule Charter). Thus,
24 the City of Providence is not facing a budget deficit for
25 the fiscal year ending June 30, 2003.

26
27 Providence Water cannot reduce its contribution to the

**PROVIDENCE WATER SUPPLY BOARD
REBUTTAL TESTIMONY OF
BOYCE SPINELLI**

1 60% recommended by Mr. Catlin. Providence Water does not
2 have the discretion to unilaterally contribute at a rate
3 different from the 80% rate of the City. Prior to
4 Providence Water reducing its contribution in FY 2001 and
5 FY 2002 to achieve equity, Providence Water conferred
6 with the City and provided the City with calculations
7 which clearly substantiated the action Providence Water
8 proposed to take, and the City approved the reduction
9 solely to allow Providence Water to achieve parity.

10
11 **Q.** Do you agree with any of Mr. Catlin's other suggestions?

12
13 **A.** I do concur with Mr. Catlin's recommendation that
14 Providence Water limit its pension contributions to a
15 percentage of the actuary's recommendation no greater
16 than that of the City and the School Department.
17 Providence Water has already demonstrated its willingness
18 to do this by reducing its contribution in FY 2001 and
19 2002.

20
21 I also agree with Mr. Catlin's suggestion that in the
22 event that Providence Water's contribution fails to equal
23 a minimum of 90% of the rate making allowance, Providence
24 Water would notify the Commission and the Division, and
25 would be willing to demonstrate whether any such
26 reduction below the allowed amount should be set aside
27 for future pension contributions.

PROVIDENCE WATER SUPPLY BOARD
REBUTTAL TESTIMONY OF
BOYCE SPINELLI

1 Q. Does that conclude your rebuttal testimony?

2

3 A. Yes.

Docket 3446 Commission Data Request #1

1. For each of the fiscal years 1998, 1999, 2000, 2001 and 2002, please provide both the actuarially recommended contribution into the retirement fund and the actual contribution to the retirement fund.

Answer: Below is a breakdown of both the recommended contribution and actual contribution by year.

	<u>Recommended</u>	<u>Actual</u>
FY 2002	\$2,530,159	\$ 500,000
FY 2001	\$2,158,542	\$ 600,000
FY 2000	\$2,186,007	\$2,186,007
FY 1999	\$2,070,352	\$2,070,352
FY 1998	\$1,889,212	\$1,889,212

Docket 3446 Commission Data Request #2

Q. 1) Please provide and explain the calculation that identifies how the level of contributions detailed in the response to Commission data request 1-1 supports the following statement made on page 6 of Mr. Spinelli's direct testimony: "As a result of these reduced contributions for FY 2001 and FY 2002, Providence Water is now on the same payment basis as the City of Providence and the School Department."

Answer: From the attached table, it is readily apparent that Providence Water had to lower its FY 2001 and FY 2002 contributions to bring its overall contribution rate for FY 1999-2002 (60.40%) in line with the contribution rate for the City and School (59.64%) for the same period of time.

**Providence Water
Contributions to Employee Retirement System of the City of Providence**

FY	City		School		Prov Water	
	Recommended	Actual	Recommend	Actual	Recommended	Actual
1999	29,161,241	14,894,227	4,209,371	2,492,553	2,070,352	1,635,578
2000	28,289,613	14,894,227	4,935,208	2,763,476	2,186,007	2,666,976
2001	29,454,092	18,534,227	5,282,593	2,897,979	2,158,542	600,000
2002	<u>32,070,491</u>	<u>23,001,771</u>	<u>5,541,062</u>	<u>3,390,075</u>	<u>2,530,159</u>	<u>500,000</u>
Total	118,975,437	71,324,452	19,968,234	11,544,083	8,945,060	5,402,554
% of Recommended		59.95%		57.81%		60.40%
% of Recommended - City & School				59.64%		

From FY 1999-2002, the General Fund of the City (City and School Fund) contributed 59.64% of the Recommended. For the same period of time, PW contributed 60.40% of the Recommended.

**THIRD SET OF DATA REQUESTS OF THE
DIVISION OF PUBLIC UTILITIES AND CARRIERS
DOCKET NO. 3446**

DIV 1-1. With regard to Mr. Spinelli's testimony at lines 16-21 of page 5, please provide the actuarially calculated pension contribution and actual pension contribution separately for each of the fiscal years 1999 through 2001 for each of the following:

City of Providence;
City of Providence School Department; and
Providence Water Supply Board.

DIV 1-2. Please provide the same information requested in the previous question for each of the fiscal years 1992 through 1998.

DIV 1-3. Please provide the actuarially recommended pension contribution for FY 2002 and FY 2003, the actual pension contribution in FY 2002 and the planned or budgeted pension contribution for FY 2003 for each of the following:

City of Providence;
City of Providence School Department; and
Providence Water Supply Board.

Answer: Please see the attached spreadsheet for FY 1992 through FY 2002, prepared with information provided by the City Controller. Providence Water was attempting to obtain revised actuarial amounts (without COLA's), but was not able to do so.

The FY 2003 is as follows;

	<u>Actuarial Amount</u>	<u>Budgeted Amount</u>
City of Providence;	33,652,067	27,257,365
City of Providence School Department; and	4,226,061	3,440,696
Providence Water Supply Board.	2,402,972	1,922,378

CITY OF PROVIDENCE
 EMPLOYEES RETIREMENT SYSTEM
 EMPLOYER PENSION CONTRIBUTION ANALYSIS
 FISCAL YEARS 1992 THROUGH 2002

FISCAL YEAR ENDING	CITY CONTRIBUTION	CITY* ACTUARIAL AMOUNT RECOMMENDED	CITY % OF CONTRIBUTION TO ACTUARY RECOMMENDED	SCHOOL CONTRIBUTION	SCHOOL* ACTUARIAL AMOUNT RECOMMENDED	SCHOOL % OF CONTRIBUTION TO ACTUARY RECOMMENDED	WATER CONTRIBUTION	WATER* CONTRIBUTION TO ACTUARY RECOMMENDED	WATER % OF CONTRIBUTION TO ACTUARY RECOMMENDED
JUNE 30, 1992	12,956,271	12,816,191	101.09%	1,217,385	1,476,461	82.45%	658,620	658,620	100.00%
JUNE 30, 1993	14,571,021	14,733,127	98.90%	1,396,239	1,340,505	104.16%	632,990	632,990	100.00%
JUNE 30, 1994	15,625,443	20,805,978	75.10%	1,466,981	2,321,088	63.20%	781,869	1,237,089	63.20%
JUNE 30, 1995	7,712,657	22,656,324	34.04%	1,790,697	2,337,507	76.61%	1,092,554	1,427,056	76.56%
JUNE 30, 1996	12,827,443	20,076,922	63.89%	1,941,585	1,827,690	89.82%	927,347	1,032,480	89.82%
JUNE 30, 1997	16,383,796	14,359,408	114.10%	1,340,000	2,707,746	49.49%	1,184,730	1,448,339	81.77%
JUNE 30, 1998	16,383,796	27,986,896	58.54%	1,447,000	2,889,087	50.09%	1,889,212	1,889,212	100.00%
JUNE 30, 1999	16,383,796	28,995,274	56.51%	1,447,000	3,163,727	45.74%	1,635,578	2,070,352	79.00%
JUNE 30, 2000	16,383,796	28,053,463	58.40%	1,447,000	3,518,732	41.12%	2,666,976	2,186,007	122.00%
JUNE 30, 2001	18,534,227	29,171,991	63.53%	2,032,628	3,789,508	53.64%	600,000	2,158,542	27.80%
JUNE 30, 2002	23,001,771	32,070,491	71.72%	2,655,330	4,016,819	66.11%	500,000	2,530,159	19.76%
Totals	170,764,017	251,726,065	67.84%	17,881,945	29,388,870	60.85%	12,569,876	17,271,446	72.78%

* Includes COLA's that were subsequently removed.
 Information provided by Mr. Joseph Chiodo, City Controller

(3) Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in the appendix to the brief. Every brief of more than twenty (20) pages shall contain a subject index, with page references. All briefs shall be as concise as possible, and shall in no event exceed fifty (50) pages, exclusive of any appendices, except by leave of the presiding officer. In all other respects, briefs shall conform to the requirements of Rules 1.5 and 1.7.

(4) Briefs shall not be accepted for filing out of time, except by leave of the presiding officer. Requests for the extension of time in which to file briefs shall conform to the requirements of Rule 1.6(b) and shall be filed at least two (2) days before the time fixed for filing such briefs. All briefs shall be accompanied by a certificate showing service upon all parties or their attorneys who appeared at the hearing or on brief.

(b) Oral Argument. When time permits and the nature of the proceedings, the complexity or importance of the issues of fact or law involved, and the public interest warrant, the presiding officer may allow the presentation of oral argument, imposing such limits or time on the argument as deemed appropriate in the proceeding. Such argument shall be transcribed and bound with the transcript of the testimony.

1.26 REOPENING PROCEEDINGS

(a) By Parties.

(1) Except as provided in Rule 1.26(a)(3), at any time after the conclusion of a hearing in a proceeding, but before the issuance of the written order, any party to the proceeding may, for good cause shown, move to reopen the proceedings for the purpose of taking additional evidence. Copies of such motion shall be served upon all participants or their attorneys of record, and shall set forth clearly the facts claimed to constitute grounds requiring reopening of the proceedings, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing, and shall in all other respects conform to the applicable requirements of Rule 1.5 through 1.7, inclusive.

(2) Within ten (10) days following the service of such motion, or such shorter or longer time as the Commission shall order, any other party to the proceedings may object or shall be deemed to have waived any objections to the granting of such petition.

(3) The Commission will not consider any motion to reopen the record filed within ten (10) days before the expiration of a final suspension order in a proceeding initiated by a general rate change filing.

(b) By the Commission. At any time prior to the issuance of its written order, after notice to the parties and opportunity to be heard, the Commission may reopen the proceeding for the receipt of further evidence.

1.27 COMMISSION DECISIONS AND ORDERS

(a) Written Orders: Calculation of Time. The Commission will issue its orders in writing in every proceeding. The Commission may in its discretion make an oral decision at the bench or at an open meeting prior to the issuance of its written order. The timeliness of applications for rehearing and notices of appeal shall be calculated from the date the Commission issues its written order.

(b) Adjudications for Equal Access to Justice for Small Businesses and Individuals. Pursuant to R.I.G.L. § 42-92-1 et seq., the Commission shall award reasonable litigation expenses incurred by the prevailing party in connection with certain adjudicatory proceedings, if the Commission concludes that there was no reasonable basis in fact and law for the Division's position. The following conditions must be met:

- (1) the adjudicatory proceedings must involve loss of benefits, the imposition of a fine, the suspension or revocation of a license or permit, or the compulsion or restriction of activities;
- (2) the prevailing party must be either:
 - (i) an individual whose net worth is less than \$500,000 at the time the adjudication is initiated; or
 - (ii) any individual, partnership, corporation, association, or private organization doing business and located in the state, which is independently owned and operated, not dominant in its field, and which employs no more than 100 persons at the time the adjudication is initiated;
- (3) the prevailing party must request reimbursement not later than thirty (30) days following the issuance of the Commission's order, detailing:
 - (i) compliance with Rule 1.27(b)(1) and (2); and
 - (ii) the costs incurred in defending against the unreasonable adjudicatory proceedings, including, but not limited to, attorney's fees and witness fees.