

Gerald J. Petros
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April 24, 2009

Via First Class and Electronic Mail

Luly E. Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

Re: *Newport Water – Docket 4025*

Dear Ms. Massaro:

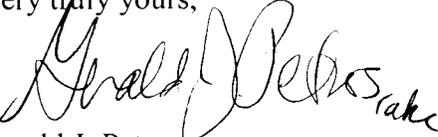
I enclose for filing an original and nine copies of:

- (1) Portsmouth Water and Fire District's Responses to Newport Water's Second Set of Data Requests; and
- (2) Portsmouth Water and Fire District's Responses to Newport Water's Third Set of Data Requests.

Portsmouth Water and Fire District objects to Newport Water's requests for PWFD's administrative board minutes, annual budgets, and audited financial statements because such materials have no relevance to these proceedings. However, because the requested materials are publicly available, PWFD is providing them as requested.

Please feel free to contact me at (401) 457-5212 if you have any questions concerning this filing.

Very truly yours,


Gerald J. Petros

Enclosures

cc: Docket 4025 Service List

968937 (38210-137951)

**PORTSMOUTH WATER & FIRE DISTRICT'S
RESPONSES TO NEWPORT WATER'S
SECOND SET OF DATA REQUESTS
Docket No. 4025**

NWD 2-1: Please provide any and all Portsmouth Water and Fire District ("PWFD") Administrative Board Minutes for the years 2007, 2008 and 2009.

Response: Copies of the requested minutes are attached.

Prepared by: William McGlinn

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-2: Please provide any and all water supply management plans as referenced in William McGlenn's hearing testimony in Docket 3818 (Page 170, Lines 23-24, and Page 171, Line 1).

Response: Copies of the requested Water Supply Management Plans are attached.

Prepared by: William McGlenn

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-3: Regarding Mr. Woodcock's testimony on Page 8, Lines 5-6, please set forth the language in the Docket 3818 Order (Number 19240) where the Commission determined that the school and library budgets should be included as part of the overall City budget. Please cite the exact language and the page number on which it appears.

Response: Mr. Woodcock's testimony on lines 5-6 was: "This issue was litigated in the last docket, and the Commission determined that these departments should be included as part of the overall City budget." Mr. Woodcock did not state that there was *explicit* language saying that "the school and library budgets should be included" when determining the water to City budget ratio in the Commission's Report and Order; rather, Mr. Woodcock testified that the Commission made a determination.

The final paragraph on page 38 going onto page 39 of the Report and Order in Docket 3818 states, "In this instance, Newport Water's budget was 10.39% of the City Budget. ... The Commission directs that Newport Water be allocated 10.39% of the budgets of the various departments with the exception of the City Clerk, City Manager, and City Council." Mr. Woodcock's reading and understanding of this is that the "10.39% of the City Budget" included the full City Budget, not just parts. Mr. Woodcock believes that in the context of the proceedings in Dockets 3675 and 3818 that the meaning and intent was clear. Mr. Woodcock believes that the Commission did make a determination.

In Docket 3675, Newport Water proposed to allocate some City Departments based on the ratio of water budget to total City budget including the schools and library, and proposed an allocation of other City Departments based on a ratio that excluded schools and libraries. That docket was settled by the parties with the explicit agreement (item #16 of the settlement) that it was not binding in future dockets.

Newport's initial filing in Docket 3818 included an allocation of numerous City Departments based on the ratio of the water budget to the City budget showing an *exclusion* of the schools and library (14.92%) (similar to that initially proposed in Docket 3675). In Mr. Woodcock's prefiled direct testimony, he objected to the

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exclusion of the schools and the library budgets from the determination of this ratio. In his rebuttal testimony, Mr. Smith explained that the schedules in Newport's initial filing were incorrect and only one item should be allocated using a ratio that excluded schools and libraries. However, in his rebuttal testimony, Mr. Smith also claimed that the ratio for the Assessor's office should exclude the schools and library.

In its open meeting minutes of August 30, 2007, the Commission notes that it will order 10.39% of various budgets to be assigned to the water division. This percentage (10.39%) is the ratio of the water budget to total city budget *including* the schools and libraries as presented on RFC Schedule A Hearing (Mr. Smith's exhibit presented at the hearings). The Commission repeated this percentage on page 39 of its Report and Order in Docket 3818. While the Report & Order does not explicitly state that this ratio (10.39%) is based on the percent of water budget to total city budget *including schools and libraries*, the 10.39% figure that was determined to be the appropriate allocation by the Commission is the exact same percentage as submitted in RFC Schedule A Hearing that also included the schools and libraries. Mr. Woodcock does not believe this was just coincidence.

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-4: Regarding Mr. Woodcock's testimony on Page 8, Lines 9-12, Mr. Woodcock testifies that "Based on Newport's calculations, the Newport Water Department accounts for more than 22% of the City of Newport's total government expenses. That is clearly out of line when compared to similar municipalities in Rhode Island like Woonsocket and Pawtucket." Please provide the following information regarding this testimony:

- a) All support for Mr. Woodcock's analysis that Newport Water's expenses as compared to the City of Newport's total governmental expenses are out of line when compared to similar municipalities like Woonsocket and Pawtucket.
- b) Any and all work papers that Mr. Woodcock used to support this testimony.
- c) Please provide the percentage of the water department cost as compared to the municipality's overall expenses for Woonsocket and Pawtucket.

Response:

- a) Mr. Woodcock compared the PUC authorized revenues for the Woonsocket and Pawtucket water utilities to the total general fund budgets of the cities. The analysis was not in-depth and Mr. Woodcock did not determine all the elements of the city budgets or expenses (e.g., were the enterprise funds included). Pawtucket's CY 2009 allowed revenues (Docket 3945) were \$19.94 million compared to the City's FY 08 budget of \$203.667 million or about 9.7%. Woonsocket's allowed revenues in Docket 3800 (FY 08) were \$8.227 million as compared to the City's actual 2008 total expenses of \$138.598 million or about 6%.
- b) See attached notes – raw data from RIPUC website and financials from city websites.
- c) See (a)

Prepared By: Christopher Woodcock

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NWD 2-5: On Page 8, Lines 19-21, Mr. Woodcock testified that Newport has “simply repeated testimony, already rejected by the Commission in prior dockets, that the City Council has no authority or responsibility” for the functions of the school department and the library. Please provide the exact language in the Commission’s Orders in the “prior dockets” wherein the Commission rejected the testimony, and the page number on which it appears.

Response: See response to NWD 2-3. Again, there is no explicit language; however, Mr. Woodcock believes the Commission’s decision in Docket 3818 supports his claim. The Commission’s determination that the allocation ratio of 10.39% (that was based on a City budget including the schools and library) strongly suggests that the Commission did not accept Newport’s claim that the City Council has no authority or responsibility for those two departments. Mr. Woodcock believes that if the Commission accepted the City’s claim that there is no such responsibility, the Commission would not have determined that the school and library budgets should be included in the ratio as Newport suggested.

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-6: On Page 10, Lines 13-16 of Mr. Woodcock's testimony, he testifies, "In the case of the City Solicitor, the Commission determined that only 50% of the City Solicitor's Office should be used as a base in recognition of the fact that Newport Water receives considerable advice" from outside counsel." Please provide the exact language in which the Commission made this determination in any past Order and the exact page where this language can be found.

Response: In Docket 3675, Mr. Woodcock testified that only 50% of the City Solicitor's office should be used as a basis for allocation; in rebuttal testimony Mr. Woodcock noted "substantial outside legal assistance". That case was settled with 50% of the Solicitor's Office as the basis for the allocation. Although not binding, the settlement was accepted by the Commission.

Newport Water's initial filing and its compliance filing in Docket 3818 show only half the City Solicitor's office as the amount allocable to various funds. The Commission accepted this in the final compliance filing. By virtue of this acceptance, Mr. Woodcock believes the Commission agreed with this determination.

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-7: On Page 14, Lines 11-13, of Mr. Woodcock's testimony, he testifies, "The time spent on water related items is no where near 11.4% of the City Council's meeting time." Please provide the following information:

- a) The exact amount of time the City Council spent on water related items in FY 2008;
- b) The basis for Mr. Woodcock's calculation of time spent.

Response:

- a) There is no way to calculate this request with the information Newport has provided. As indicated in Mr. Woodcock's prefiled testimony, an analysis of all the available information regarding City Council activities demonstrated minimal meaningful involvement of the Newport City Council in Water Division activities. It was clear from that analysis that the time spent on Water Division activities was nowhere near 11.4%.
- b) Mr. Woodcock did not calculate an amount of time spent. Please see his direct testimony on this matter (page 15).

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-8: Please provide the support for Mr. Woodcock's calculation that five percent of the Newport City Council's time should be allocated to the Water Division as set forth on page 15, lines 7-13, of his testimony, including any and all work papers supporting his calculation.

Response: There are no work papers. It is up to Newport Water to propose a reasonable basis for this determination. This was the purpose of the Cost Allocation Manual ordered by the Commission. As indicated in Mr. Woodcock's prefiled testimony, Newport's proposed basis is unreasonable and not reflective of the time or cost of the City Council activities in support of the Water Division. In the absence of a reasonable basis to allocate the City Council time, 0% of the City Council's stipend could be allocated to the Water Division. Rather than simply suggesting 0%, Mr. Woodcock felt that 5% (a value that is about half the budget ratio) was not unreasonable. Until the City of Newport can provide a better basis, Mr. Woodcock believes the 5% allocation is more than sufficient. Because Newport failed to provide a reasonable basis for the determination of an appropriate share of the City Council's stipend, Mr. Woodcock would not object to a 0% allocation by the Commission until Newport does provide a reasonable basis. See also response to NWD 2-7.

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-9: On Page 15, Lines 15-16, Mr. Woodcock testified about PWFD's "historic attempts" to get records related to the water division from the Clerk's Office." With regard to this testimony, please state the following:

- a) Each date and time Mr. Woodcock, or any other representative of PWFD, attempted to get records related to the Water Division from the Newport City Clerk's Office;
- b) The exact documents Mr. Woodcock, or any representative from PWFD, attempted to obtain;
- c) The name of the person(s) Mr. Woodcock, or any representative of PWFD, spoke with;
- d) Any and all documents which evidences, support or memorialize the attempts made by Mr. Woodcock, or any other representative of PWFD, to get records related to the Water Division from the Newport City Clerk's Office.

Response:

- a) There is no claim to have attempted to get documents from the City Clerk's office since Docket 3818. Please see the responses from PWFD to NWD data requests 1-13 and 1-14 in Docket No. 3818, where Newport essentially asked this same question and PWFD responded. Newport Water has the same access to documents in prior filings that PWFD does.
- b) See (a) above
- c) See (a) above – Neither Mr. Woodcock, nor any representative of the PWFD have the names
- d) Please see the following documents from prior dockets that Newport has the same access to as does PWFD and its consultants:
 - a. The responses from PWFD to NWD data request 1-13 and 1-14 in Docket No. 3818
 - b. Mr. Woodcock's surrebuttal testimony in Docket 3675 (approx pages 5-6)
 - c. Mr. Woodcock's prefiled testimony in Docket 3818 (approx page 16)
 - d. Mr. Woodcock's prefiled surrebuttal testimony in Docket 3818 (approx pages 16-18)

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-10: Please state whether Mr. Woodcock has read the Commission's Order in Docket 3818 (Order Number 19240).

Response: Mr. Woodcock has read the Commission's Order in Docket 3818 (Order No. 19240).

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-11: On Page 33, Lines 8-10 and Lines 18-20, Mr. Woodcock refers to an “operator” and a “private operations contract”. Please provide the following information:

- a) Please explain what “operator” Mr. Woodcock is referring to;
- b) Please explain what “private operations contract” Mr. Woodcock is referring to.

Response:

- a) Mr. Woodcock was referring to a possibility of a private operator for the water treatment facilities (as with Newport’s wastewater treatment plant). Mr. Woodcock understands that Ms. Forgue’s testimony (page 9) indicates that the City’s consultant has recommended that the City continue operations of the facilities. It was not clear if this is a final decision by the City. The discussion of a requirement for a private operator to keep separate pumping records was only meant to be relevant if the City chooses to engage a private operator for one or both water treatment facilities. If the City continues the operations, the City can certainly continue to maintain these records.
- b) See (a).

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-12: On Page 36, Line 25, Mr. Woodcock testifies that “At the time this testimony was due, there were several Data Requests pending.” Please identify each and every Data Request that was pending on April 1, 2009 when Mr. Woodcock’s testimony was due.

Response: At the time this portion of the testimony was drafted, PWFD’s third set of data requests was still outstanding and a fourth set had been drafted. PWFD received the responses to the third set of data requests on Friday March 27, so they were not outstanding on April 1. While the 4th set of data requests was not sent out before April 1, it was expected to be issued around that date.

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-13: Please provide the PWFD's annual budget for the last three fiscal years.

Response: Copies of the requested annual budgets are attached.

Prepared by: William McGlenn

**PORTSMOUTH WATER & FIRE DISTRICT'S
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SECOND SET OF DATA REQUESTS
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NWD 2-14: Please provide the PWFD's audited financial statements for the last three fiscal years.

Response: Copies of the requested financial statements are attached.

Prepared by: William McGlenn

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-15: In PWFD's response to NWD 1-2(a) it is indicated that PWFD sold 12,644,000gal to the Navy in FY2007. The Navy's response to NWD 1-2(a) is that it purchased 6,352,774 gal from PWFD in FY07. Which amount is correct?

Response: PWFD reviewed its records with the Navy and determined that PWFD's amount is correct.

Prepared by: William McGlenn

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-16: In PWFD's response to NWD 1-2 and the Navy's response to NWD 1-2, there is a discrepancy between the answers as to the amounts the Navy paid PWFD in FY07 and FY09. Which amount is correct?

Response: PWFD reviewed its records with the Navy and determined that PWFD's amounts are correct.

Prepared by: William McGlenn

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 2-17: In the Navy's response to NWD 1-2, it indicates that it will continue to purchase water from PWFD until its reservoir project is completed in December 2009 (half way through FY 2010). However, the table set forth in response to NWD 1-5 shows that the Navy will not purchase any water from PWFD in FY 2010. Please clarify the projection of how much water PWFD will anticipate it will purchase from Newport in FY 2010. Also include a projection of how much water PWFD plans to sell to the Navy in FY 2010.

Response: At the time of PWFD's response to NWD 1-2, the latest schedule from the Navy indicated that its storage tank project would be completed in August 2009. A copy of that schedule is attached. PWFD requested an updated schedule from the Navy but had not received it at the time of this response.

In any event, if PWFD were requested to supply the Navy's Melville Area North for the months of September 2009 through December 2009, PWFD's records indicate that the sales would average approximately 710,000 gallons per month, for an additional 2.84 MG over the 2.3 MG projected for FY-10 in PWFD's response to NWD 1-2.

Prepared by: William McGlinn

William McGlinn

From: Carlson, James F CIV NAVFAC MIDLANT, NWPT [james.f.carlson1@navy.mil]
Sent: Tuesday, March 10, 2009 4:42 AM
To: William McGlinn
Cc: Weber, Michael L NAVFAC; Reynolds, James (Doug) NAVFAC MIDLANT; Carlson, James F CIV NAVFAC MIDLANT, NWPT
Subject: Monthly Update For the Melville Water Project (March 2009)
Signed By: james.f.carlson1@navy.mil

Bill:

Below is the March 2009 monthly update on the Melville Water Project:

1. Navy awarded a construction project for the Melville Water Pumping Station and Reservoir Modifications on 31 December 2008.
2. Construction schedule has construction activities starting in late March 2009 and scheduled to be completed in August 2009.
3. Navy performed a comprehensive water leak survey in November 2008 on distribution piping that is currently connected to Portsmouth Water Fire District (PWFD). Two leaks have been repaired to date. 1 other leak will be repaired as soon as possible, weather permitting. A copy of the report was provided to PWFD.
4. A propane heating unit was installed for the winter at the Melville hot box location, this will be secured in late April 2009.
5. Backflow preventers in the hot box were tested and witnessed by PWFD in February 2009.
6. PWFD provided Navy with monthly water demand readings. Navy will monitor any increase in demands and communicate any changes to PWFD.
7. Navy is working on obtaining a Rhode Island Department of Transportation easement for the 8" water line that runs across RT 114. The survey work for this easement for this easement has been completed, and was sent to Navy Real Estate personnel in Virginia for the next phase (easement application preparation).
8. The construction easement for the Melville Water project has been approved from the Portsmouth Town Council.

Thanks/
Jim Carlson
Newport PWD Utilities

**PORTSMOUTH WATER & FIRE DISTRICT'S
RESPONSES TO NEWPORT WATER'S
THIRD SET OF DATA REQUESTS
Docket No. 4025**

NWD 3-1: On page 23 of his testimony, Mr. Woodcock testified that “There are a number of adjustments that do not appear to have been made by the City in accordance with its own manual.” Please identify each of the adjustments referenced in Mr. Woodcock’s testimony.

Response: The referenced testimony on page 23 of Mr. Woodcock’s testimony relates to the allocation of the MIS costs that are within the Finance Department budget. The total MIS Budget (page 146 of the 2008 – 2009 City Budget) is \$1,171,857. The total of the two MIS items (communications and other) presented on RFC Schedule D is \$1,215,132. The Cost Allocation Manual (top of page 7) indicates a number of areas or items that will be evaluated and removed from the bottom line. It is unclear how or if these items were removed or adjusted.

Prepared By: Christopher Woodcock

**PORTSMOUTH WATER & FIRE DISTRICT'S
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NWD 3-2: On page 32 of his testimony Mr. Woodcock's states that in Docket 3675 Newport identified pumping costs separately from treatment costs. Please specifically identify where Newport identified these costs separately in Docket 3675?

Response: In Docket 3675, Pumping-Newport Plant and Pumping-Lawton Valley were included and identified as separate line items on RFC Schedule 1 on each of those schedules submitted during different phases of the proceedings. While the specific line items were identified, no cost was included for each. Because rates in that docket were proposed to increase across-the-board and not in accordance with any cost allocation study, breaking the pumping costs out was not an issue for Docket 3675. Within the detail of RFC Schedule 3, the two pumping costs were also included in Docket 3675. These line items were not presented in the written evidence because they were hidden on the excel spreadsheet provided by Newport Water. Again, this was not an issue in that docket because the rates were increased across-the-board; however a line item for the expense was included on the summary schedules and in the spreadsheet detail.

In the most recent filing, Newport has excluded these line items from the comparable RFC Schedule 1 and RFC Schedule 3 (where there are no longer hidden cells related to pumping).

Prepared By: Christopher Woodcock

Docket No. 4025 - City of Newport Water Division – General Rate Filing

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