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September 13, 2013

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

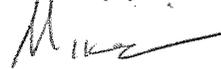
Re: Providence Water Supply Board – Docket No. 4406

Dear Luly:

Enclosed for filing are an original and nine copies of Providence Water Supply Board's Objection and Motion for a Protective Order Pursuant to Rule 1.18 regarding Bristol County Water Authority's 4th Set of Data Requests.

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

Very truly yours,



Michael R. McElroy

MRMc:tmg
cc: Service List

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PROVIDENCE WATER SUPPLY BOARD : DOCKET No. 4406

**PROVIDENCE WATER SUPPLY BOARD'S OBJECTION AND MOTION FOR
A PROTECTIVE ORDER PURSUANT TO RULE 1.18 REGARDING BRISTOL
COUNTY WATER AUTHORITY'S 4TH SET OF DATA REQUESTS**

INTRODUCTION

To date, Providence Water Supply Board (Providence Water) has received (1) 34 data requests from the Public Utilities Commission (Commission), (2) 56 data requests from Kent County Water Authority (KCWA), (3) 68 data requests from the Division of Public Utilities and Carriers (Division), and (4) 72 data requests from the Bristol County Water Authority (BCWA).

With specific regard to BCWA, many, if not most, of their data requests contain numerous subparts. When the subparts are counted, the BCWA data requests alone total 227, and the total number of data requests received by Providence Water, including the BCWA subparts (but not counting subparts from the Division, the Commission, or KCWA), now totals 385.

Although there is no specific limitation regarding the number of data requests in the Commission's Rules, the Rules often turn to the Rhode Island Superior Court Rules of Civil Procedure for guidance. For example, under Commission Rule 1.18(c)(3), "the relevancy of a [data] request shall be determined under the standards established for such determination under Rule 26 of the Superior Court Rules of Civil Procedure."

The Superior Court Rules of Civil Procedure limit interrogatories to no more than a total of 30, including subparts. See Rule 33 and *Eleazer v. Ted Reed Thermal, Inc.*, 576 A.2d 1217, 1220 (RI 1990). In *Eleazer*, the Supreme Court held that "subsidiary

questions, arranged as part of a purported single question, each constitute a separate question for purposes of this rule, and the bar has been alerted that the court looks with this disfavor upon attempts to disguise the number of questions by inclusion of multiple questions in a single numbered question.”

Similarly, the Federal Rules of Civil Procedure provide in Rule 33(a)(1) that interrogatories are limited to “no more than 25 written interrogatories, including all discreet subparts.” (Emphasis added).

Although there is no similar specific numerical limitation on data requests in the Commission’s Rules, at some point, the number of data requests propounded can become unreasonable, oppressive, and burdensome. This is especially true when this case was filed on March 29, 2013, and data requests from BCWA continue to be filed as Providence Water is working hard to prepare its rebuttal testimony, which must be filed on or before **September 27, 2013**.

**BCWA’s SET 4 SHOULD BE STRICKEN
AND NO FURTHER BCWA DATA REQUESTS SHOULD BE ALLOWED
TO BE FILED WITHOUT PRIOR LEAVE OF THE COMMISSION**

On Tuesday, September 3, at 4:13 p.m., counsel for BCWA emailed its 4th set of data requests to Providence Water. Although there were ostensibly only 11 numbered requests, counting the subparts, there are at least 34 new data requests in BCWA’s Set 4. Under Rule 1.18, Providence Water’s responses are due in 21 days, which makes the data responses due on **September 24, 2013**, only three days before Providence Water’s rebuttal testimony is due.

Providence Water has limited resources, and has in good faith worked diligently to answer the voluminous data requests propounded to date by all parties. However,

BCWA's Set 4 crosses the line into unreasonableness and oppressiveness. Providence Water therefore respectfully requests that, under Rule 1.18(e), the Commission grant a protective order and rule that this set of data requests is unreasonable, annoying, oppressive, and burdensome, and should be stricken, and that no further BCWA data requests should be allowed to be filed without prior leave of the Commission. Rule 1.18(e), provides in pertinent part as follows:

(e) Protective Orders. Upon motion by a party from whom discovery is sought, and for good cause shown, the presiding officer may make an order when justice requires to protect the party from unreasonable annoyance, embarrassment, oppression, burden or expense, or from disclosure of confidential business and financial information. If the motion for a protective order is denied in whole or in part, the presiding officer may order that the party provide or permit discovery.¹

CONFIDENTIAL INFORMATION SHOULD BE PROTECTED

This same Rule 1.18(e) allows a protective order to be issued to protect a party from disclosure of "confidential business and financial information." A significant portion of BCWA's Set 4 seeks confidential business and financial information. For example, with regard to funding for Providence Water's proposed new Central Office Facility (COF), to the extent any information being sought by BCWA is "site specific," the disclosure of the sites being considered by Providence Water could be damaging to Providence Water and its ratepayers. This is because if the public becomes aware that Providence Water is considering building or rehabbing a new COF and relocating a large number of employees to a specific area, real estate speculators could easily drive up the

¹ We do not know why BCWA has chosen this rate case as a forum to harass, annoy, and oppress Providence Water with these voluminous ill-timed data requests. However, (1) Providence Water's undersigned legal counsel has represented Providence Water in approximately 40 DPUC and PUC proceedings over the course of over 20 years, and BCWA has never, to the best of the knowledge of the undersigned counsel, asked a single data request in any of these dockets, (2) Pamela Marchand, the new BCWA Executive Director was terminated in 2011 by Providence Water, and (3) upon information and belief, Pamela Marchand has filed a lawsuit against the City of Providence.

price for the acquisition of the land and buildings and other facilities in the area that Providence Water will need to acquire or lease. This is why the Access to Public Records Act, R.I.G.L. § 38-2-2, protects such information from public disclosure. See R.I.G.L. § 38-2-2(B), (I), (K), and (N). Therefore, Providence Water also seeks a protective order that states that even if BCWA Set 4 is not stricken in its entirety, Providence Water is not required to disclose any confidential business or financial information with regard to the COF that is identifiable to any specific site under consideration.

IN THE ALTERNATIVE, AN EXTENSION OF TIME SHOULD BE GRANTED.

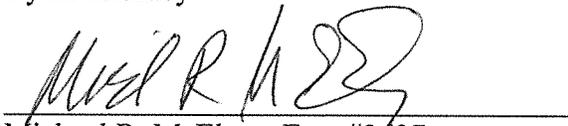
In the alternative, if the Commission is not inclined to issue a protective order to quash in its entirety BCWA Set 4 as unreasonable, burdensome, and oppressive, and to bar future BCWA data requests with prior Commission approval, then Providence Water respectfully requests an extension of time to respond to BCWA Set 4 until a reasonable period of time after Providence Water has filed its rebuttal testimony in this matter. Providence Water suggests a reasonable date for response would be **October 4, 2013**, which is only one week after Providence Water's rebuttal testimony must be filed.² Because surrebuttal testimony from the intervenors is not due until October 25, 2013, the filing of data responses by Providence Water to BCWA Set 4 on or before October 4, 2013 would still give BCWA (and all intervenors) three weeks to study the responses and incorporate the information into their surrebuttal testimony.

² As required by Rule 1.15(b), Providence Water states that it asked BCWA for an extension of time until October 4, but BCWA refused.

WHEREFORE, Providence Water respectfully requests that the Commission:

1. Enter a protective order which states that (a) Providence Water need not respond to BCWA Set 4, and (b) the BCWA may not file any additional data requests without leave to do so from the Commission; or, in the alternative;
2. Enter a protective order which states that (a) Providence Water need not respond to BCWA's Set 4 until October 4, 2013, and (b) that Providence Water need not disclose any confidential business and financial information in its response, specifically including any information concerning Providence Water's plans regarding a COF to the extent those plans are "site specific."

Respectfully submitted,
PROVIDENCE WATER SUPPLY BOARD
By its attorney

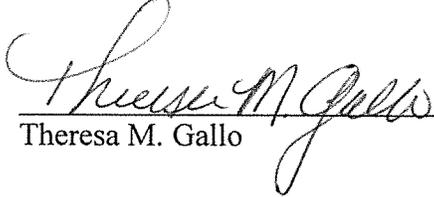


Dated: September 13, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2013, I caused to be electronically mailed a copy of the within to all parties set forth on the attached Service List, and regular mailed copies to Luly Massaro, Commission Clerk, Peter D. Ruggiero, Esq., and Robert A. Watson, Esq.


Theresa M. Gallo