

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION**

IN RE: NARRAGANSETT BAY :
COMMISSION COMPLIANCE : **DOCKET NO. 4562**
RATE FILING :

REPORT AND ORDER

On April 21, 2015 the Narragansett Bay Commission (NBC) filed an application with the Rhode Island Public Utilities Commission (PUC or Commission) seeking a rate increase for debt service and debt service coverage costs under NBC's Variable Rate Debt Obligation in Tax Exempt Commercial Paper (TECP/VRDO) debt program.¹ The proposed rates were designed to generate additional revenues of \$2,194,285 to support a total revenue requirement of \$98,192,059. If approved as filed, NBC's present revenues would increase by 2.37% effective July 1, 2015.

In support of its request, NBC submitted the prefiled testimony of its consultant, Walter Edge of B&E Consulting LLC and its engineering manager, Thomas Brueckner,

¹ In addition to applications to increase rates, the Commission in Docket No. 3483 allowed NBC expedited treatment when it files to increase rates solely for debt service and debt service coverage. NBC's primary source of funding for its capital program is in the form of borrowings from the State Revolving Loan Fund (SRF) administered by the Rhode Island Clean Water Finance Agency (RICWFA). Since loan capacity is limited, the Variable Rate Debt Obligation in Tax Exempt Commercial Paper (VRDO/TECP) program provides for short term financing with attractive variable rates that can be paid off as more SRF money comes available. VRDO/TECP is less costly than Open Market Bonds. The requirements for all compliance filings seeking a rate increase under the TECP/VRDO program are that they: 1) be filed no later than sixty days prior to its effective date, 2) be limited for debt service and debt service coverage for Capital Improvement Project projects, 3) contain a revised limited cost of service schedule reflecting the changes to the revenue and expense accounts affected by the VRDO/TECP program, 4) contain testimony and schedules in support of the debt service and debt service coverage proposed as well as a current and projected annual debt service payment schedule, 5) contain a summary of funds currently available for the Capital Improvement Program (CIP) program and the projected funding needed for the rate year period, 6) contain a summary of funding received from RICWFA, including funds requested, received, the interest rate, and repayment schedules, 7) contain a summary of how prior years' debt service coverage funds were utilized, 8) contain a calculation of new rates based on a uniform percentage increase to rates, and 9) contain a showing of compliance with prior Commission orders and the requirements of Section 2.11 of the Commission's Rule of Practice and Procedure. The ability to file for expedited treatment has been extended two times. The current extension expires in 2017.

P.E.² Mr. Edge testified in support of a debt service and debt service coverage allowance rate increase needed for FY 2016. He noted that NBC has made four previous filings pursuant to the Commission's ruling allowing for expedited treatment of requests to increase rates solely for debt service and debt service coverage.³

Since its last revenue increase for debt service and debt service coverage in July 2013, Mr. Edge noted, NBC has issued approximately \$82 million of new debt and approximately \$80 million of refunding bonds. Mr. Edge identified 16.8% or approximately \$7.6 million of savings to ratepayers resulting from NBC's sale of the 2005 Series A Bonds in October 2014 and 5.9% or approximately \$2.5 million of savings resulting from the sale of the 2007 Series A Bonds in March 2015.⁴

Mr. Edge expounded that the requested increase is necessary prior to NBC being issued additional long-term debt so that it can demonstrate its rates are sufficient to generate revenues that are 125% of debt service. He used the fiscal year ending (FYE) June 30, 2015 as the test year. The rate year is FYE June 30, 2016. He noted that NBC's projected use of capital funds for 2016, 2017, and 2018 are \$37.9 million, \$42.8 million, and \$19.6 million respectively, all of which are necessary to comply with NBC's consent agreements. Mr. Edge provided that NBC will only receive approximately half of its requirements from Rhode Island Clean Water Finance Agency (RICWFA) due to funding constraints.⁵

In the instant matter, Mr. Edge represented that NBC is requesting \$2,194,285 of additional revenue, which will result in a 2.37% across-the-board rate increase on sewer

² Prefiled testimony generally is available at the PUC offices located at 89 Jefferson Boulevard, Warwick, Rhode Island or at www.ripuc.org/eventsactions.html, organized by docket number.

³ Edge Direct at 1-2 (Apr. 21, 2015).

⁴ *Id.* at 2-3.

⁵ *Id.* at 3-4.

user rates.⁶ He listed the compliance debt service filing requirements set forth above⁷ and asserted that each of the requirements is set forth and supported in NBC's application.⁸

Mr. Brueckner offered testimony to update Phase III of the Combined Sewer Overflow (CSO) Project. After providing a brief history of the CSO Project, he explained how NBC had initiated a reevaluation of the Phase III facilities, originally proposed, to determine whether there was a more cost effective approach to completing the project. Mr. Brueckner stated that NBC had contracted with an independent engineering firm to accomplish this analysis. As a result of the study, four alternatives were developed. He indicated that one of the alternatives was previously rejected and that the NBC Board of Directors was expected to choose from the remaining three, ranging in cost from \$740 million to \$924 million, at its April 28, 2015 meeting. Mr. Brueckner proffered that absent federal legislation eliminating the federal mandates, NBC is legally obligated to proceed with Phase III. He noted that if it is determined that proceeding with Phase III will impose a financial burden based upon Environmental Protection Agency (EPA) criteria on NBC's ratepayers, the construction requirements may be able to be modified or extended, but not eliminated. As of the date of his testimony, the burden, based on a weighted average of household income for the service area which according to EPA standards makes the project affordable, was considered "medium." However, that same analysis yielded a "high" burden when performed for only the cities of Providence, Pawtucket, and Central Falls, which comprise a large portion of NBC's service area. Finally, Mr. Brueckner provided that construction is

⁶ *Id.* at 4.

⁷ Footnote 1.

⁸ Edge Direct at 5-10.

scheduled to begin in late 2019 and is expected to take between seven to thirty years depending upon the alternative chosen.⁹

The Division of Public Utilities and Carriers (Division) filed a memorandum in support of NBC's request for the additional \$2,194,285 of revenue. Thomas Catlin, the Division's consultant, reiterated that the purpose of the requested increase was to allow NBC to meet increased costs associated with a \$41.75 million dollar loan it received from the RICWFA.¹⁰ Mr. Catlin noted that NBC had complied with the requirements set forth by the Commission previously.¹¹ He confirmed that the loan proceeds are expected to be used for capital requirements and that NBC has complied with the requirement that it develop rates to generate the additional revenues through a uniform percentage increase in all sewer rates. He recommended that the Commission approve NBC's request.¹²

On June 17, 2015, following public notice, the Commission conducted an evidentiary hearing. NBC presented Messrs. Brueckner and Edge as a panel. Mr. Brueckner provided a description of the projects occurring during 2016 and 2017, noting that Phase II of the CSO project is completely operational. He discussed the Phase III redesign, the alternatives to be considered by NBC, and why the alternative chosen was preferable in terms of water quality, benefits, and cost.¹³ In discussing the affordability issue associated with the Phase III facilities, Mr. Brueckner described the EPA criteria and analysis, which only considers residential rates, and how NBC's consultant

⁹ Brueckner Direct at 1-6 (Apr. 21, 2015).

¹⁰ Catlin Memo. at 1-2 (Jun. 2, 2015).

¹¹ See fn.1, *supra*.

¹² Catlin Direct at 2-3.

¹³ Hr'g Tr. 8-15 (Jun. 17, 2015).

considered the cost impact on some of the lower income communities within NBC's service territory.¹⁴

In responding to questions regarding the regulatory compliance building, Mr. Brueckner explained that rather than rebuild a costly heating, ventilation, and air conditioning (HVAC) system and in order for the building to be suitable for laboratory functions, replacement rather than refurbishment was the appropriate course of action. He was unsure of the planned future use of the existing structure and opined that it may be used for storage or demolished.¹⁵ NBC Counsel Keough noted that in addition to the design of Phase III, all of the projects NBC plans to fund with the requested \$2,194,285 in additional revenue have been approved by the Rhode Island Department of Health and are on NBC's project priority list.¹⁶ Mr. Edge calculated the 2.37% across the board increase to amount to a \$10.92 annual increase for a typical residential customer.¹⁷

Mr. Brueckner further explained that the purpose of the Phase III reevaluation was to determine whether the project still met the affordability guidelines established by EPA and to determine whether it was still needed based on the water quality standards attained through Phases I and II. He provided that after completion of the reevaluation, it was concluded that Phase III was still needed. He highlighted two differences between the chosen alternative and the original baseline: 1) the green infrastructure component at an additional cost of approximately \$40 million and 2) the construction of a stub tunnel to address certain overflows from the Moshassuck River at no additional cost to Phase III. He identified 2038 as the estimated completion date of Phase III and acknowledged that

¹⁴ *Id.* at 16-22.

¹⁵ *Id.* at 23-26.

¹⁶ *Id.* at 27-28.

¹⁷ *Id.* at 29.

the 2018 dollar estimate of \$815 million total costs would likely increase because of inflation.¹⁸

Immediately following the hearing, the Commission deliberated on NBC's request for a rate increase.¹⁹ The Commission accepted the Division's recommendation that the increase be recovered through a uniform increase to rates. The Commission understands that NBC has to continue the CSO project as mandated by its consent agreement with Department of Environmental Management and water quality standards mandated by EPA. The Commission recognizes NBC's efforts to secure low interest loans for the benefit of its ratepayers to satisfy some of its mandates. The Commission finds that this rate increase is reasonable, necessary, and in the public's interest. At an open meeting on June 29, 2015, the Commission reaffirmed this decision and voted to approve NBC's request.

Accordingly, it is

(22022) ORDERED:

1. Narragansett Bay Commission's rate application of April 21, 2015 is hereby approved for effect July 1, 2015.
2. Tariffed rates, except for septage fees, permit fees, biochemical oxygen demand/total suspended solids surcharges and pre-treatment fees, will be increased by 2.37%, or \$2,194,285, for a total revenue requirement of \$98,192,059.
3. Narragansett Bay Commission shall comply with all other findings and instructions in this Report and Order.

¹⁸ *Id.* at 32-37.

¹⁹ The approved cost of service schedule is attached to this Report and Order as Appendix A.

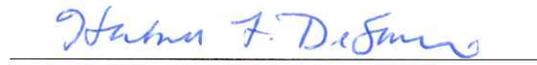
EFFECTIVE AT WARWICK, RHODE ISLAND ON JULY 1, 2015,
PURSUANT TO AN OPEN MEETING DECISION ON JUNE 29, 2015. WRITTEN
ORDER ISSUED AUGUST 6, 2015.

PUBLIC UTILITIES COMMISSION




Margaret E. Curran, Chairperson


Paul J. Roberti, Commissioner


Herbert F. DeSimone, Jr., Commissioner

NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Rhode Island Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.

Appendix A

	Docket 4478*		
	Test Year	Adjustment	Rate Year
REVENUES			
User Fee Revenues	\$ 92,773,660		\$ 92,773,660
Miscellaneous	3,224,114		3,224,114
Total Revenue	95,997,774		95,997,774
EXPENSES			
Personnel Services	21,739,796		21,739,796
Operating Supplies & Expenses	14,933,901		14,933,901
Special Services	2,938,084		2,938,084
Debt Service	44,894,330	1,755,428	46,649,758
Debt Coverage	11,223,583	438,857	11,662,440
Total Expense	95,729,694	2,194,285	97,923,979
OPERATING RESERVE	268,080		268,080
COST OF SERVICE	95,997,774	2,194,285	98,192,059
RATE YEAR REVENUES AT PRESENT RATES	95,997,774		95,997,774
REVENUE INCREASE	\$ -	2,194,285	2,194,285

* Docket 4478 Rate Year approved by PUC. Most current debt service approved and included in rates.