



State of Rhode Island and Providence Plantations
Office of the General Treasurer

Seth Magaziner
General Treasurer

February 4, 2019

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

Re: Docket 4890

Dear Ms. Massaro:

Enclosed please find an original and 10 copies of the following document to be filed in the above-entitled matter:

- Motion to Intervene Out of Time by Rhode Island General Treasurer.

Kindly note that copies have been provided electronically to the individuals/entities identified on the service list for this matter.

Warmest Regards,


Amy L. Crane, Esq.

Enclosure

cc: Joseph A. Keough, Jr., Esq.
Christy Hetherington, Esq.
Karen L. Giebink, Director of A & F
Harold Smith, Raftelis Financial Consultants
Ralph Smith, Larkin Associations

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: NARRAGANSETT BAY COMMISSION
GENERAL RATE FILING

DOCKET NO.: 4890

MOTION TO INTERVENE OUT OF TIME BY
RHODE ISLAND GENERAL TREASURER

NOW comes the Rhode Island General Treasurer, Seth Magaziner, by and through counsel and respectfully moves to intervene out of time pursuant to 810-RICR-00-00-1.14 (formerly Rule 1.13) of the Public Utilities Commission Rules of Practice and Procedure as a full party in the above-captioned matter. In support of his motion the Rhode Island General Treasurer states the following:

1. Seth Magaziner (“Treasurer”) is the General Treasurer of the State of Rhode Island.
2. As the General Treasurer for the State of Rhode Island, the Treasurer is responsible for, and serves as chair of, the public finance management board (“PFMB”) pursuant to Rhode Island General Laws § 42-10.1-1.
3. The PFMB is responsible for assisting “all state departments, municipal and regional authorities, agencies, boards, commissions, and public and quasi-public corporations, and fire districts and other special districts” with respect to financial planning related to bonds, leases, and notes and other debt authorized. *See* Rhode Island General Laws § 42-10.1-2 (Emphasis added.)
4. Additionally, the PFMB is required to comprehensively review the financing of capital improvements by public corporations including the affordability of bonding programs as it relates to tax-supported debt and burdens on residents and businesses. *See* R.I.G.L. §42-10.1-8.

5. The Narragansett Bay Commission (“NBC”) is a public corporation pursuant to Rhode Island General Laws § 46-25-4.

6. The Narragansett Bay Commission is authorized to issue revenue bonds and notes pursuant to Rhode Island General Laws § 46-25-58.

7. Additionally, the Treasurer is authorized, pursuant to Rhode Island General Laws § 46-25-40, to advance funds to NBC in support of certain projects, with approval from the Governor.

8. On October 10, 2018, Narragansett Bay Commission (“NBC”) filed a General Rate Filing with the Rhode Island Public Utilities Commission (“PUC”) containing revised rate schedules for the purpose of raising revenue to partially support Phase III of the combined sewer overflow project.

9. NBC defined Phase III as being affordable if annual rates do not exceed 2% of annual income for more than 33% of ratepayers within the total NBC service area and also do not exceed 2% of annual income for more than 50% of ratepayers within any of the municipalities within the service area.

10. However, Phase III fails NBC’s own affordability guidelines as rates are projected to exceed 2% of income for more than 36% of ratepayers once the CSO III project is phased in and are also projected to exceed 2% of income for a majority of ratepayers in the City of Central Falls.

11. Furthermore, the affordability standards adopted by NBC do not account for the wide range of incomes within a municipality and the varying abilities of ratepayers within a community to afford the proposed rates.

12. For example, within the City of Providence median incomes within a census tract range as low as \$15,259 (tract 44007000700) and as high as \$133,438 (tract 44007003400). Within tract

44007000700 rates are forecasted to rise as high as 4.43% of median income, while within tract 44007003400 rates are never forecasted to exceed 0.55% of median income.

13. 810-RICR-00-00-1.14 (formerly Rule 1.13) of the Commission's Rules of Practice and Procedure governs interventions. The Rule provides that "any person with a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the Commission." Such right or interest may be:

- (a) A right conferred by statute.
- (b) An interest which may be directly affected and which is not adequately represented by existing parties, or any other interest of such a nature that movant's participation may be in the public interest.
- (c) Any other interest of such nature that movant's participation may be in the public interest.

14. Interventions must be filed no later than the date fixed by the Commission or the date of the hearing, unless, for good cause shown, the Hearing Officer authorized the late filing. Pursuant to 810-RICR-00-00-1.14 (formerly Rule 1.13), late intervenors are bound to the agreements reached and orders issued prior to intervention and may not broaden the issues in the case.

15. The Treasurer's Motion to Intervene has been filed out of time for good cause. The Treasurer attempted to discuss this matter with NBC to determine whether or not NBC would be open to discussing financial alternatives. Unfortunately, due to scheduling issues, NBC was not able to meet initially until January 3, 2019. The parties have engaged in subsequent meetings in an effort to address the Treasurer's concerns. However, in light of the timeline presented in this matter, the Treasurer has determined that there is a need to intervene. Immediately upon the decision to intervene, this Motion was filed.

16. The Treasurer's Office has informed NBC leadership team of its intention to intervene and has reached out to NBC counsel without response.¹ The Division of Public Utilities has indicated that it takes no position on the motion.

17. As the cost of Phase III is significant, and because the Treasurer, acting in his official capacity as General Treasurer and as chair of the PFMB, has a statutory responsibility to assist and advise NBC with its financial planning related to debt issuance, the Treasurer's intervention is necessary as a matter of right and, alternatively, because of his concern for the affordability impacts to ratepayers, as a matter of public interest. As such, the Treasurer respectfully moves to intervene as a full party in this docket.

18. The Treasurer agrees to be bound by the procedural schedule already established in this docket.

WHEREFORE, the Treasurer respectfully requests that the Rhode Island Public Utilities Commission grant this Motion and allow the Treasurer to intervene.

Dated: February 4, 2019

Respectfully submitted,
General Treasurer Seth Magaziner
By Counsel



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¹ The Treasurer recognizes that NBC's counsel is currently unavailable due to personal reasons and will update his pleadings upon receipt of any notification by counsel. However, in an effort to prevent further delay, the Treasurer has determined it is necessary to file without response.

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of February, 2019, I hand delivered an original and ten hard copies of the foregoing to the Public Utilities Commission and sent a true copy of the document by mail and electronic mail to the Docket Service List.



Amy L. Crane