

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DIVISION OF PUBLIC UTILITIES AND CARRIERS  
89 JEFFERSON BOULEVARD  
WARWICK, RHODE ISLAND 02888**

IN RE: Narragansett Bay Commission :  
Application For Authority to Incur Debt : Docket No. D-09-71

**REPORT AND ORDER**

On August 19, 2009, the Narragansett Bay Commission ("NBC"), One Service Road, Providence, Rhode Island, filed an application with the Rhode Island Division of Public Utilities and Carriers ("Division") seeking approval to enter into long-term debt and issue revenue bonds for an amount not to exceed \$55,000,000 from the Rhode Island Clean Water Finance Agency ("RICWFA"). The application was filed in accordance with the requirements contained in Section 39-3-15 of the Rhode Island General Laws.

In response to the application filing, the Division conducted a duly noticed public hearing on September 2, 2009. The hearing was conducted in the Division's hearing room, located at 89 Jefferson Boulevard in Warwick. The following counsel entered appearances:

For the NBC:	Joseph A. Keough, Jr., Esq.
For the Division's Advocacy Section:	Leo J. Wold, Esq. Assistant Attorney General, and  Ladawn S. Toon, Esq. Special Assistant Attorney General

The NBC proffered pre-filed direct testimony from two witnesses in support of its application. The witnesses were identified as Ms. Karen L.

Giebink, the NBC's Director of Administration and Finance; and Ms. Maureen Gurghigian, Managing Director, First Southwest Company.

Ms. Giebink testified that the NBC is requesting Division approval to enter into long-term debt and issue revenue bonds for an amount not to exceed \$55 million at an interest rate not to exceed a market rate of 4.72 percent. Ms. Giebink related that "this loan is being subsidized with federal stimulus funds authorized under the American Recovery and Reinvestment Act (ARRA)." She testified that as a result, a portion of the loan will be at the traditional subsidized rate and a portion will be principal forgiveness. Ms. Giebink testified that the combined effect of these factors is a projected blended subsidized rate of approximately 1.42 percent.<sup>1</sup>

Ms. Giebink testified that the requested loan is from the RICWFA and can be used to fund various capital projects. She noted that the RICWFA is a state agency that administers the State Revolving Loan Fund program that provides low interest loans to qualified borrowers.<sup>2</sup> In support of the NBC's petition, Ms. Giebink identified fourteen similar loans from the RICWFA totaling \$351,169,709 previously approved by the Division.<sup>3</sup>

Ms. Giebink provided detailed testimony describing the projects that could be funded with the loan proceeds.<sup>4</sup> She related, however, that based upon extensive conversations, conference calls and web-casts with officials from the Environmental Protection Agency, the RICWFA, the Rhode Island

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<sup>1</sup> NBC Exhibit 1, Giebink Testimony, p. 2.

<sup>2</sup> Id.

<sup>3</sup> Id.

<sup>4</sup> Id.

Department of Environmental Management and staff, the NBC has determined that it is in NBC's best interest to spend the entire proceeds from this loan, after the cost of issuance, on a single project, specifically, the Field's Point Nitrogen Removal Facilities. Ms. Giebink also testified that the NBC will satisfy the "numerous restrictions and reporting requirements associated with the ARRA funds."<sup>5</sup>

Ms. Giebink next testified that other than the instant petition for approval from the Division, the NBC has met all of the other requirements needed to complete the proposed transaction. She related that on May 20, 2009 the NBC's Board of Commissioners passed a resolution authorizing the transaction. She added that on May 19, 2009, the NBC submitted a revised loan application with RICWFA; and that on August 17, 2009 NBC received notification from the RICWFA that the NBC's financing application was approved. Ms. Giebink also testified that the NBC's current long-term credit rating with Standard and Poor's is AA-.<sup>6</sup>

When asked whether the NBC's current rates generate sufficient revenue to meet the debt service payments associated with the instant loan, Ms Giebink testified as follows:

NBC's long-term financial plan was based upon a RICWFA loan of only \$12 million. However, current market rates, ARRA principal forgiveness and loan structure result in annual debt service that can be supported by revenues generated from current rates. NBC's approved rates also generate sufficient revenues to meet the debt service coverage requirements....<sup>7</sup>

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<sup>5</sup> Id., p. 3.

<sup>6</sup> Id., pp. 2-3.

<sup>7</sup> Id., p. 4.

In her final comments, Ms. Giebink related that the closing of this loan is scheduled for October 6, 2009.<sup>8</sup>

Ms. Maureen E. Gurghigian testified that First Southwest Company serves as financial advisor to many bond issuers such as schools, cities, airports, hospitals, sports complexes, water and wastewater authorities and districts and toll roads. She related that the firm currently serves more than 2000 municipalities and agencies, including more than 400 in New England.<sup>9</sup>

Ms. Gurghigian related that she has served as financial advisor to the NBC for the past 20 years. She stated that in her capacity as the NBC's financial advisor she has assisted the NBC with a number of long-term borrowings from the RICWFA, several short-term borrowings, the \$70 million Variable Rate Demand Bonds ("VRDB") issued in April 2004, the \$45 million Open Market Revenue Bond Issue in August 2005, a \$42.5 million issue in February 2007, and the refunding of the 2004 VRDB issue in 2008. She related that her services have included the facilitation of the credit rating process, loan structuring and other functions.<sup>10</sup>

Ms. Gurghigian provided supporting information regarding the proposed \$55 million loan and specifically addressed the structure and interest rate assumptions of the borrowing.<sup>11</sup> Regarding scheduling, Ms. Gurghigian related that the bonds are scheduled to be priced on or about September 15, 2009. She explained that the RICWFA plans to mail its Preliminary Official Statement

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<sup>8</sup> Id.

<sup>9</sup> Id., Gurghigian Testimony, p. 1.

<sup>10</sup> Id., p. 2.

<sup>11</sup> Id., pp. 2-3.

to prospective investors on or about September 8, 2009 and prefers that the borrower approvals are in place prior to the mailing of the Preliminary Official Statement. According, Ms. Gurghigian testified that the NBC “respectfully requests a decision by the Division as soon as possible.”<sup>12</sup>

The Division’s Advocacy Section did not present any witnesses in this docket. Alternatively, however, the Advocacy Section proffered a memorandum from Mr. Thomas S. Catlin, a consulting economist who specializes in public utility regulation. In the memorandum, Mr. Catlin indicates that he had reviewed the filing and agrees that the NBC has a sufficient debt service allowance in rates, coupled with available “principal forgiveness” ARRA funds, to meet the anticipated debt service on this new bond issue.<sup>13</sup> After a brief cross-examination of the NBC’s witnesses, the Advocacy Section stated for the record that it was satisfied from the evidence presented, that the NBC had met the requisite burden of proof set forth in R.I.G.L. §39-3-15, et seq. and that the proposed borrowing was in the public interest.

Additionally, the Division received public comment from Mr. Grant Dulgarian, who expressed concerns relative to the NBC’s compliance with a consent agreement issue, involving the NBC’s Combined Sewer Overflow (CSO) Project, which was the subject of a recent rate case proceeding before the Public Utilities Commission (“Commission”). Mr. Dulgarian noted that he offered similar comments before the Commission in that recent rate case. In response to Mr. Dulgarian’s assertions, the NBC maintained that it is in full

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<sup>12</sup> Id., 4 and Transcript.

<sup>13</sup> Advocacy Section Exhibit 1.

compliance with all of its regulatory obligations. The Advocacy Section echoed the NBC's response. When queried by the Hearing Officer, Mr. Dulgarian related that he had no objection to the NBC's instant application for borrowing authority.

#### FINDINGS

Predicated on a thorough examination of the record in this matter, the Division finds that the NBC's application seeking approval to enter into long-term debt and issue revenue bonds for an amount not to exceed \$55,000,000 from the Rhode Island Clean Water Finance Agency, is reasonable and in the best interest of ratepayers.

The Division also finds the matter raised by Mr. Dulgarian to be outside the scope of this narrow-issue "borrowing" proceeding. Mr. Dulgarian is free to press his continuing concern over the NBC's CSO Project with the Commission.

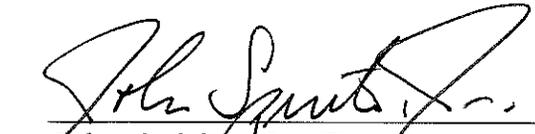
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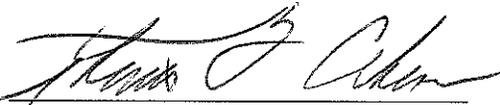
(19750) ORDERED:

1. That the Narragansett Bay Commission's August 19, 2009 application, seeking approval to enter into long-term debt and issue revenue bonds for an amount not to exceed \$55,000,000 from the Rhode Island Clean Water Finance Agency, is hereby approved as filed.
2. That the Division hereby makes this approval contingent upon the NBC's use of the debt service allowance previously approved by the Public Utilities Commission, or if subsequently required, by additional debt service allowances approved by the Public Utilities Commission.

3. That the Division hereby limits approval of the instant application to the terms and details identified in the record.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON SEPTEMBER 3, 2009.

  
John Spirito, Jr., Esq.  
Hearing Officer

APPROVED:   
Thomas F. Ahern  
Administrator

