

**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-13-13

REPORT AND ORDER

On February 7, 2013, 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 issue long-term debt for both a Rhode Island Clean Water Finance Agency (“RICWFA”) borrowing and an open market issue for a total not to exceed \$107,000,000. 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 February 25, 2013. The hearing was conducted in the Division’s hearing room, located at 89 Jefferson Boulevard in Warwick. The following counsel entered appearances:

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| For the NBC: | Joseph A. Keough, Jr., Esq. |
| For the Division’s Advocacy Section: | Christy Hetherington, 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 Mr. William J.

Fazioli, Senior Managing Consultant with Public Financial Management, Inc. (“PFM”).

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 \$107 million. However, unlike in prior filings where NBC has requested the Division to approve a specific bond issue, as either a subsidized loan from the RICWFA or an open market issue, Ms. Giebink testified the NBC is instead requesting approval to issue long-term debt for both a RICWFA borrowing and an open market issue for a total not to exceed \$107 million for the two transactions; specifically, \$82 million in open market revenue bonds, and \$25 million from the RICWFA.¹

In support of its unusual request, Ms. Giebink related that the NBC is in the midst of an extensive construction program and based on updated cash flow projections, NBC’s capital cash flow needs exceed the loan capacity of the RICWFA. She added that NBC has several construction contracts in progress and issued \$40 million in Bond Anticipation Notes (BANs) to meet cash flow needs on November 12, 2012. Ms. Giebink testified that these BANs mature on May 28, 2013 and are to be ‘taken out’ or refinanced with proceeds from the open market issue.²

Ms. Giebink explained that there are several factors which the NBC must take into consideration as part of its capital financing strategy. She proffered the following list:

¹ NBC Exhibit 1, Giebink Testimony, p. 2-3.

² Id., p. 2.

1. NBC must complete certain capital improvements to meet permit and comply with Consent Agreements.
2. NBC must ensure that it can meet its contractual commitments and the RICWFA does not have sufficient capacity to meet NBC's capital needs.
3. NBC must "take out" the \$40 million BANs.
4. There is a significant financial benefit to NBC ratepayers from maximizing debt issuance at historic low interest rates.
5. Not all of NBC's capital projects are eligible for RICWFA funding.
6. There is financial benefit to NBC ratepayers from accessing the market in early March....
7. NBC must not exceed the debt service and debt service coverage allowances authorized by the Public Utilities Commission (PUC).³

Ms. Giebink next related that although NBC projects it will need approximately \$17.5 million less in fiscal years 2013 and 2014 than was projected a year ago, the NBC's capital needs remain high, at more than \$223 million over the two year period. Ms. Giebink also provided details on NBC's available capital funds, which stood at \$52.4 million as of December 31, 2012.⁴

Going forward, Ms. Giebink testified that NBC has unfunded cash flow needs of \$156.5 million for the period January 1, 2013 through June 30, 2014. She related that it is assumed by NBC that RICWFA will have the capacity to loan NBC \$37 million (\$12 million in the next fiscal year) during this period and that NBC will need to go to the open market for the balance of its funding needs.⁵

Ms. Giebink testified that the NBC's authorizing resolution provides that the proceeds of this loan may be used for:

³ Id.

⁴ Id., p. 3.

⁵ Id., p. 4.

*“... financing the acquisition, design, evaluation, inspection, construction, improvement, installation, cleaning, rehabilitation, furnishing and equipping of: the Phase I Combined Sewer Overflow (CSO) Facilities, the Phase II CSO Facilities, the Field’s Point Wastewater Treatment Facility Nitrogen Removal Facilities, Bucklin Point Biogas Reuse, Field’s Point Wind Turbines, the upgrade of the Field’s Point Operations Building and other miscellaneous improvements at various locations, the Bucklin Point Wastewater Treatment Facility Nitrogen Removal Facilities, the Bucklin Point Wastewater Treatment Facility Improvements, Floatables Control Facilities, the Regulatory Compliance Building, the Fire Code Compliance, New Interceptor Maintenance (IM) Facilities, System-Wide Facilities Plan, the Omega and Central Avenue Pump Stations and Field’s Point Utility Reliability Enhancement and Commission Interceptors, and, other projects of the Commission.”*⁶

Ms. Giebink noted that although the loan proceeds are authorized for all the projects listed above, preliminary projections show that 75% of the proceeds will be used to finance construction of the CSO Phase II Facilities; and that 21% of the proceeds are projected to be used to finance the Biological Nutrient Removal projects at Field’s Point and Bucklin Point.⁷

Ms. Giebink next identified the status of the requirements necessary to close on the \$82 million open market revenue bond issue. She related that NBC’s Board of Commissioners passed the Authorizing Resolution for the Issuance of up to \$100,000,000 in Revenue Obligations at their June 19, 2012 Board meeting.⁸ She also informed the Division that Standard and Poor’s has recently reaffirmed the NBC’s AA- credit rating. Ms. Giebink additionally

⁶ *Id.*

⁷ *Id.*, p. 5.

⁸ *Id.*, and Giebink Exhibit KG-1.

related that the Preliminary Official Statement (POS), related to the instant borrowing, is currently being finalized and should be completed within the next few days. Ms. Giebink further testified that NBC has sufficient coverage to meet the debt service and debt service coverage requirements for the \$82 million revenue bond issuance.⁹

Ms. Giebink next turned her attention to the status of the requirements necessary to close on the \$25 million borrowing from RICWFA. She testified that the NBC submitted its loan application with the RICWFA on April 13, 2012. Ms. Giebink related that on September 25, 2012 NBC received notification from the RICWFA that its loan request was approved at a level of \$25 million; and that NBC submitted a revised application letter on October 19, 2012. Ms. Giebink stated that the NBC's Board of Commissioners subsequently passed a resolution authorizing the NBC to borrow an amount not to exceed \$25 million for the RICWFA on December 3, 2012.¹⁰ Ms. Giebink added that the NBC has sufficient coverage for the \$25 million bond issuance based upon the rates approved by the Public Utilities Commission on November 19, 2012.¹¹ Ms. Giebink also noted that the Loan Agreement included with the instant application is not final. She explained that the NBC has included a draft loan agreement that is similar to the loan agreements

⁹ Id., p. 5 and Giebink Exhibit KG-2.

¹⁰ Id., and Giebink Exhibit KG-3.

¹¹ Id., p. 6 and Giebink Exhibit KG-2.

executed by the NBC as part of the traditional subsidized RICWFA loan program.¹²

Finally, Ms. Giebink testified that NBC will be able to meet all of its coverage requirements even though the debt levels supported in the rates resulting from Docket 4352 were designed to support only \$73 million. She explained that “[d]ue to lower interest rates and thoughtful debt structuring, it is anticipated that NBC will be able to support approximately \$34 million more in long-term debt within the allowance approved by the PUC in Docket 4352.”¹³

Before discussing the instant loan proposal, Mr. William Fazioli offered some background information on PFM and on the independent financial advisory services that PFM provides to public entities. Mr. Fazioli related that over the last 37 years PFM has grown into a national firm with over 450 employees in 34 offices across the United States. He testified that for the “15th consecutive year, PFM has maintained its position as the number one financial advisor in the industry, providing financial advisory services in more than 900 transactions for a total par amount in excess of \$56.8 billion in 2012.” Mr. Fazioli added that in terms of wastewater issuers, “PFM has been the top ranked financial advisor in this sector for several years as well while representing other large wastewater operators including the Massachusetts Water Resources Authority and the DC Water and Sewer District.”¹⁴ Mr. Fazioli

¹² Id., p. 6.

¹³ Id.

¹⁴ NBC Exhibit 1, Fazioli Testimony, p. 1.

testified that PFM was appointed in 2012 to serve as Financial Advisor to the NBC by its Board of Commissioners.

With respect to the instant matter, Mr. Fazioli indicated that he has been asked to provide testimony in support of NBC's application and to address the current interest rate environment. At the outset, Mr. Fazioli related that NBC's lowest cost of borrowing has traditionally been through subsidized loans from the RICWFA. He stated that NBC has used the RICWFA loans to finance its Capital Improvement Program ("CIP") "to the extent that funds were available." Mr. Fazioli related, however, that since RICWFA has a limited capacity to make subsidized loans to the NBC for its various projects, the NBC must issue open market revenue bonds to supplement its capital funding needs.¹⁵

Mr. Fazioli testified that because of NBC's strong credit, it is able to take advantage of historic low interest rates through the issuance of open market revenue bonds. As NBC's financial advisor, Mr. Fazioli related that after evaluating NBC's funding options, he has advised NBC to take full advantage of "the RICWFA traditional subsidized rate program ... and at the same time maximize the issuance of open market revenue bonds within the constraints of the PUC's allowance for debt service and debt service coverage."¹⁶

Mr. Fazioli next discussed the structure and interest rate assumptions of the open market revenue bond issue. He related that there are two primary objectives with the structure of the open market revenue bonds. The first is that ratepayer impact can be mitigated by using 30-year revenue bonds and

¹⁵ *Id.*, p. 2.

¹⁶ *Id.*, p. 3.

'wrapping' the debt service around NBC's existing RICWFA debt. Secondly, based on current market conditions, the bonds will likely be issued at a premium. Mr. Fazioli explained that the premium would be available to fund construction costs. Mr. Fazioli provided a draft debt service schedule with his pre-filed testimony.¹⁷

As for the structure and interest rate assumptions associated with the RICWFA borrowing, Mr. Fazioli related that the revenue bonds are amortized over 20 years with the final maturity in or about 2033 and will be structured as level debt with the traditional RICWFA subsidy of 1/3 of market rate. Mr. Fazioli provided a draft debt service schedule with his pre-filed testimony.¹⁸

Based on the fact that interest rates are at historic lows, Mr. Fazioli opined that "...it is a good time for borrowers like NBC that are strong credits and have large CIPs to access the market." Mr. Fazioli also testified that NBC is planning to price the bond issue in early March, and, therefore, needs Division approval by March 1, 2013 "so that the POS can be mailed to investors."

The Division's Advocacy Section proffered one witness in this docket. The witness was identified as Mr. Stephen Scialabba, the Division's Chief Accountant. Mr. Scialabba also sponsored a memorandum from Mr. Thomas S. Catlin, of Exeter Associates, Inc., a rate consultant who has appeared as an expert witness for the Division in NBC rate proceedings before the Public Utilities Commission. In the memorandum, Mr. Catlin concludes that the

¹⁷ *Id.*, p. 3 and Fazioli Exhibit WJF-1.

¹⁸ *Id.*, p. 3 and Fazioli Exhibit WJF-2.

NBC has sufficient debt service in its rates to cover the proposed borrowings.¹⁹ Mr. Scialabba testified that after reviewing NBC's petition filing, as well as the supporting evidence associated with the filing, he would agree with Mr. Catlin's evaluation.

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 borrowings are in the public interest.

FINDINGS

Predicated on a thorough examination of the record in this matter, the Division finds that the NBC's application seeking approval to issue long-term debt for both a RICWFA borrowing and an open market issue for a total not to exceed \$107,000,000 (specifically, \$82 million in open market revenue bonds, and \$25 million from the RICWFA), is reasonable and in the best interest of ratepayers.

Now, therefore, it is

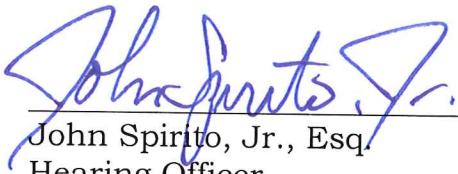
(20970) ORDERED:

1. That the Narragansett Bay Commission's February 7, 2013 application, seeking approval to issue long-term debt for both a RICWFA borrowing and an open market issue for a total not to exceed \$107,000,000 (specifically, \$82 million in open market revenue bonds, and \$25 million from the RICWFA), is hereby approved as filed.

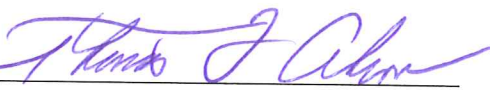
¹⁹ Advocacy Section Exhibit 1.

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.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON FEBRUARY 26, 2013.



John Spirito, Jr., Esq.
Hearing Officer

APPROVED: 

Thomas F. Ahern
Administrator