

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

IN RE: City of Woonsocket Water Division :
 Application for Authority to Issue : Docket No. D-13-20
 Long-Term Debt :

REPORT AND ORDER

On March 27, 2013, the City of Woonsocket Water Division (“WWD” or “City”) filed an application with the Rhode Island Division of Public Utilities and Carriers (“Division”) seeking authority to enter into long-term debt and issue revenue bonds in an amount not to exceed \$5,000,000 as part of a Rhode Island Drinking Water State Revolving Fund (“DWSRF”) loan from the Rhode Island Clean Water Finance Agency (“RICWFA”). The WWD application indicates that it seeks to borrow \$5,000,000 from the RICWFA “to finance the initial costs associated with the procurement documents, preliminary design, and pilot testing, required to start the process towards construction of a new treatment facility, as well as the financing required for upgrades to the water system through an interconnection within the Town of Cumberland.” The application was filed in accordance with the requirements contained in Section 39-3-15 of the Rhode Island General Laws and Rule 14 of the Division’s Rules of Practice and Procedure.

In response to the application filing, the Division conducted a duly noticed public hearing on April 18, 2013. The hearing was conducted in the

Division's hearing room, located at 89 Jefferson Boulevard in Warwick. The following counsel entered appearances:

For the WWD:	Alan M. Shoer, Esq.
For the Division's Advocacy Section*:	Karen Lyons, Esq. Special Assistant Attorney General

WWD's Direct Case

WWD proffered three witnesses in support of its application. The witnesses were identified as Sheila McGauvran, Director of Public Works for the City of Woonsocket (who has responsibility for managing WWD); Ms. Maureen E. Gurghigian, Senior Vice President, First Southwest Company, 652 George Washington Highway, Lincoln, Rhode Island; and Mr. David G. Bebyn, CPA, President of B & E Consulting, LLC., 21 Dryden Lane, Providence, Rhode Island. All three witnesses submitted pre-filed direct testimony in this docket.

Ms. McGauvran provided testimony detailing how WWD plans to use the planned \$5,000,000 in funding. Addressing the treatment plant project first, Ms. McGauvran related that WWD has been required by the Rhode Island Department of Environmental Management ("RIDEM") to construct a new treatment plant, at a different location, with new treatment technologies that will eliminate the need for filter backwash into the Blackstone River. She emphasized that WWD's existing treatment plant was constructed in 1962.¹ Ms. McGauvran testified that WWD plans to use \$2 million from the instant borrowing to begin construction on a new treatment facility.

¹ WWD Exhibit 1, McGauvran Testimony, p. 2.

Ms. McGauvran testified that WWD's engineering consultants have documented structural and regulatory compliance concerns with the existing treatment facility going back to 1999. She related that the current facility uses 5 steel tanks that operate as filters and clearwells and that these tanks "are seriously rusted." Ms. McGauvran related that the concrete foundations also "exhibit serious spalling." Ms. McGauvran also related that "the facility is becoming increasingly exposed to the failure of a major treatment component and the resulting inability to meet water quality and water volume requirements."²

Ms. McGauvran further testified that RIDEM has imposed regulatory requirements that prohibit WWD from discharging filter back wash into the Blackstone River, "which cannot be met at the existing site without substantial funding of infrastructure for pretreatment and attenuation." Ms. McGauvran stated that WWD entered into a Consent Agreement with RIDEM in March, 2008 that allowed WWD to continue to operate its existing treatment plant with specified modifications, until such time as permanent treatment processes and facilities for the treatment of the filter backwash can be completed. She added that permanent compliance is required by May 1, 2016.³

Ms. McGauvran additionally testified that a new treatment facility will provide WWD with the capacity of increasing its "safe yield" production from 3

² *Id.*, pp. 2-3.

³ *Id.*, p. 3.

MGD to 13.5 MGD. Ms. McGauvran related that this higher production will also allow WWD to sell more water to other customers in other communities.⁴

Ms. McGauvran next testified that WWD has been regularly updating the Commission and Division on these activities. WWD has also provided on-site tours for the Commission and regulatory staff. She related that the details surrounding the planned new treatment facility have also been thoroughly vetted in WWD's last two rate cases (Dockets 3800 and 4320).⁵

On the matter of financing, Ms. McGauvran related that the City of Woonsocket is planning a 2-tiered borrowing approach to supply the necessary financing for the construction of the new treatment facility. Initially, the City would like to borrow approximately \$2 million, through the subsidized DWSRF program that is managed by the RICWFA. Ms. McGauvran testified that this initial amount is expected to cover the development of procurement documents, engineering, preliminary design, and pilot testing to satisfy the requirements of the Rhode Island Department of Health. After that, in approximately one year, Ms. McGauvran testified that WWD will seek permission from the Division to borrow the amount necessary to construct a new Water Treatment facility and associated ancillary facilities such as pumping stations, utilities, site access, and a sewer connection. She stated that the City anticipates a 3-year construction period working with the RICWFA; and also expects to seek a multi-year approval of debt service payments from the Commission.⁶

⁴ Id.

⁵ Id., pp. 3-4.

⁶ Id., p. 5.

Ms. McGauvran next testified that WWD has already secured sufficient water utility rates from the Commission to be able to meet the debt service obligations for the borrowing requested in the instant petition. She related that approved rate settlements in Docket Nos. 3800 and 4320 provide adequate funding to support the debt service requirements for this new \$2 million in borrowing.⁷

Ms. McGauvran next discussed WWD's planned \$2.4 million borrowing request for funding an Interconnection Project with the town of Cumberland. By way of background, Ms. McGauvran explained that the City needs to "provide redundant access to water supply to mitigate the impacts of potential water supply emergencies and high demand deficiencies." Ms. McGauvran noted that such need was evidenced in 2007 after a 12-inch main in the Diamond Hill Road area developed a break and needed to be shut down. Ms. McGauvran testified that "because of deficiencies in both the Cumberland and Woonsocket Water supply systems both communities would like to install an emergency interconnection facility for potential future supplies."⁸ Ms. McGauvran added that this interconnection can also be useful in the event there are shut downs at the WWD's existing water treatment facility, "and this emergency interconnection can then supply water to Woonsocket residents in the event of a water supply emergency." She further related that "with this new interconnection in place, the Cumberland Water Department can receive the

⁷ *Id.*, p. 6.

⁸ *Id.*, p. 7.

required water supply and pressure for customers during even peak demand conditions.”⁹

Ms. McGauvran testified that WWD’s engineering consultant estimates that the construction costs for this project, which includes pumping and piping improvements within Woonsocket’s Industrial Park and Diamond Hill Road high services areas, will be approximately \$4.4 million. However, as the City was able to secure funding in the amount of \$2.0 million from the Rhode Island Water Resources Board to help fund this project, Ms. McGauvran testified that the City is only seeking approval from the Division to borrow the remaining \$2.4 million.¹⁰

Ms. McGauvran further testified that WWD has funding in its rates for an IFR restricted account that can be used to pay IFR related activities either “pay-as-you-go” or use the funds to pay debt service relating to IFR projects. Ms. McGauvran related that WWD intends to use approximately \$180,000 of its nearly \$2 million IFR funding to pay the debt service on the \$2.4 million interconnection project. She explained that these funds will only be used for the interim period, “until permanent funding in the debt service reserve restricted account can be obtained for this \$2.4 million borrowing when we next go to the Commission for rates required to support the multi-year process for construction of the new treatment plant.”¹¹

As in previous related dockets, Ms. Maureen E. Gurghigian began her testimony by stating that First Southwest Company serves as financial advisor

⁹ *Id.*

¹⁰ *Id.*, p. 8.

¹¹ *Id.*, p. 9.

to many issuers of municipal debt in Rhode Island. She related that she has supervisory responsibility for First Southwest's involvement with borrowings by the State of Rhode Island, numerous public agencies and 30 Rhode Island municipalities. She testified that the firm currently serves more than 2000 municipalities and agencies, including more than 400 in New England. Ms. Gurghigian noted that her office assists clients with the origination of more than \$800 million in public financing issues each year.¹²

Ms. Gurghigian related that she has served as financial advisor to WWD in previous bond approval cases before the Division. She related that she is currently providing assistance to WWD with respect to the planned loan from the RICWFA. She testified that the proposed \$5,000,000 borrowing from the RICWFA will be used to fund two projects: (1) \$2,000,000 relating to the start-up of the process of constructing a new Treatment Facility; and (2) \$2,400,000 for the emergency interconnection between Woonsocket and Cumberland.

In describing how the financing works, Ms. Gurghigian explained that pursuant to the Safe Drinking Water Act Amendments of 1996, Rhode Island has created a Drinking Water State Revolving Fund administered by the RICWFA to provide financial assistance to water suppliers. She related that the fund uses federal capitalization grants and state matching funds to provide subsidized (25% below market rate) loans to water suppliers for qualifying projects listed on the Project Priority List maintained by the Rhode Island Department of Health. Ms. Gurghigian explained that the RICWFA sells bonds in the public market and loans the proceeds to its drinking water borrowers

¹² WWD Exhibit 1, Gurghigian Testimony, pp. 1-2.

pursuant to loan agreements. Ms. Gurghigian related that WWD has identified these projects in its capital program, and they are listed on the Rhode Island Department of Health’s Project Priority List. Ms. Gurghigian consequently opined that the projects in issue qualify for a subsidized DWSRF loan through RICWFA.¹³

Ms. Gurghigian testified that the term of the requested borrowing is 20 years. She explained that once the construction funds are fully drawn down, WWD will have 20 years to repay the loan. Ms. Gurghigian noted that the full term including the construction period is not expected to exceed 23 years.¹⁴ Ms. Gurghigian testified that based upon current market conditions, it is anticipated that the loan will not exceed a market rate of 5.674%, which, she related, would result in a subsidized rate of approximately 4.067%. For the purpose of Division approval, however, Ms. Gurghigian recommended “a not-to-exceed market rate of 6.0% to allow for market fluctuation, and a not-to-exceed subsidized rate of 4.50%.¹⁵

Ms. Gurghigian also proffered a breakdown of how the funds will be disbursed. She presented the following tables:

<u>Treatment Facility</u>	
Deposit in Construction Fund	\$1,799,533.40
Capitalized Interest	0.00
Deposit in Debt Sinking Reserve Fund	155,466.60
Loan Origination Fee (1%)	20,000.00
Cost of Issuance	<u>25,000.00</u>
Total	\$2,000,000.00 ¹⁶

¹³ Id., p. 3.

¹⁴ Id., p. 3.

¹⁵ Id.

¹⁶ Id., p. 4.

Cumberland Interconnection

Deposit in Construction Fund	\$2,167,077.70
Capitalized Interest	0.00
Deposit in Debt Sinking Reserve Fund	183,922.30
Loan Origination Fee (1%)	24,000.00
Cost of Issuance	<u>25,000.00</u>
Total	\$2,400,000.00 ¹⁷

Ms. Gurghigian testified that this borrowing is expected to price in late April 2013. She explained that the RICWFA requires that all borrower approvals be in place prior to pricing loans. Ms. Gurghigian related that a Division approval by mid-April would put the City in a position to meet the RICWFA schedule.¹⁸

Ms. Gurghigian also proffered a debt service schedule with her pre-filed testimony. She testified that for the \$5,000,000 debt, annual debt service is expected to increase by approximately \$341,000 per year. She noted that for purposes of her debt service analysis, a market rate of 5.673% and a subsidized rate of 4.067% have been used.¹⁹

Mr. David Bebyn addressed the financial impact of the proposed financing. After a preliminary discussion on how the proceeds of the loan will be used, the relevant interest rate and debt service numbers, and the form of collateral which supports the borrowing, Mr. Bebyn addressed the question of how the proposed financing impacts WWD's ratepayers. He opined that the terms of the borrowing are "absolutely" in the best interest of the ratepayers.²⁰

¹⁷ Id., p. 4.

¹⁸ Id., p. 4 and Transcript.

¹⁹ Id., p. 5 and Schedule MG-1.

²⁰ Id., p. 4.

With respect to the Treatment Facility project, he concluded that “there will be no additional impact on the ratepayers because the current debt service is already included in rates.”²¹ Mr. Bebyn additionally testified that this facet of the proposed borrowing will have no impact on WWD’s debt/equity ratio.

With respect to the Cumberland Interconnection project, Mr. Bebyn agreed that funding for this project will not come directly from WWD’s debt service restricted reserve account, but rather, in the short term, from IFR funding. Mr. Bebyn further agreed that WWD will need to seek additional debt service-related rate relief from the Commission.²² As for its impact on ratepayers, Mr. Bebyn related that while “there will be no immediate impact on the ratepayers... when [WWD] files its next rate increase it will likely request an increase in funding for its debt service restricted account for the long-term debt service required for their Cumberland Interconnection borrowing.” He described the associated rate impact as “small.” Mr. Bebyn also noted that this aspect of the borrowing will also have a “minor” impact on WWD’s debt/equity ratio.²³

PUBLIC COMMENTS

At the conclusion of WWD’s direct case, the hearing officer queried those in attendance at the hearing if anyone was interested in offering “public comment” in response to WWD’s proposed borrowing. Two individuals came forward.

²¹ WWD Exhibit 1, Bebyn Testimony, pp. 1-3.

²² Id., pp. 5-6.

²³ Id., p. 7.

Mr. Roland Michaud identified himself as a resident of Woonsocket and a WWD ratepayer. Mr. Michaud expressed dismay regarding the “not-to-exceed” interest rate of 6% contained in WWD’s filing, which he claimed to be much higher than the interest rate that WWD projected for this loan in its presentation before the State’s “Budget Commission” in Woonsocket. Mr. Michaud related that “we have been told that one of the reasons that we’re pushing this through is because of the low cost of borrowing money through the Clean Water Revolving Fund [sic].”²⁴ He testified that he expected the interest rate to be “between two and three percent.”²⁵ Mr. Michaud also questioned the prudence of WWD’s decision to fund the Cumberland Interconnection project, which he opined should not be a priority for Woonsocket in light of the City’s current financial difficulties.²⁶

Mr. Albert G. Brien identified himself as a citizen of Woonsocket and a Councilman on the Woonsocket City Council. Councilman Brien echoed Mr. Michaud’s sentiments concerning the interest rate percentage identified in the filing, as well as the need for WWD’s ratepayers to be funding the Cumberland Interconnection project. Councilman Brien also questioned the reasonableness of funding a new treatment plant project at this time.²⁷

Advocacy Section Position

The Division’s Advocacy Section did not present any witnesses in this docket. After a thorough cross-examination of the WWD’s witnesses, the

²⁴ Tr. 35-36.

²⁵ Tr. 45.

²⁶ Tr. 37-40.

²⁷ Tr. 49-57.

Advocacy Section stated for the record that it was satisfied from the evidence presented, that the WWD had met the requisite burden of proof set forth in R.I.G.L. §39-3-15, et seq. and that the proposed bond issuance and borrowing were in the public interest.

FINDINGS

As a preliminary finding, the Division quickly observed that there was a disconnect between WWD's requested borrowing amount, \$5,000,000, and the actual costs associated with the two projects identified and discussed in the filing, \$4,400,000. In response to the discrepancy, the Division requested that WWD fully explain the inconsistency. In response to this request for clarification, WWD's witnesses explained that between the time the City Council approved the proposed borrowing and related projects, with a then estimated aggregate cost of up to \$5,000,000²⁸ and the time WWD was able to get more accurate cost estimates for the two projects, WWD learned that it had overestimated the funding requirements for the two projects.²⁹ Based on current cost estimates, WWD's witnesses agreed that WWD will now only be borrowing \$4,400,000 through RICWFA. Indeed, the record reflects that RICWFA has limited its loan approval to "an amount not to exceed \$4,400,000..."³⁰ In light of this development, the Division will limit its approval of the instant borrowing to \$4,400,000, *infra*.

²⁸ See WWD Exhibit 2.

²⁹ Tr. 10-11.

³⁰ WWD Exhibit 1, See: March 21, 2013 letter from Mr. Anthony B. Simeone (RICWFA Executive Director) to Mayor Leo Fontaine.

The Division also recognizes the sincerity and concern of the two Woonsocket citizens, one of whom is a sitting Councilman, who appeared in opposition to the planned borrowing. It was obvious from their testimony that both had strong convictions against the City of Woonsocket incurring any more debt at a time when the City's financial health is in such a weakened state. However, the Division must remain mindful that the projects identified in this filing have been previously approved for funding by the Commission, in Docket No. 4320;³¹ by a majority of the Woonsocket City Council;³² by the Rhode Island Department of Health;³³ and by RICWFA and RIDEM.³⁴

Specifically, the Division's role in this proceeding is to "...fix the amount, character, and terms of any [bond] issue, and the purposes to which the issue or any proceeds thereof shall be applied and recite that the money, property, consideration, or labor procured or to be procured or paid for by the issue has been, or is reasonably required for the purposes specified in the order, and the value of any property, consideration, or service as the case may be, as found by the division, for which, in whole or in part, the issue is proposed to be made."³⁵ In short, the Division's limited jurisdiction in this matter is to determine: (1) if the amount, terms and conditions of the proposed borrowing are reasonable, (2) if the bond proceeds are "reasonably required" for funding the identified projects, and (3) if the identified projects have value to WWD's ratepayers.

³¹ WWD Exhibit 4.

³² WWD Exhibits 2 and 3 and Tr. 55-56.

³³ WWD Exhibit 1.

³⁴ WWD Exhibit 1.

³⁵ See R.I.G.L. §39-3-18.

With respect to the first two criteria, above, the Division is satisfied that WWD's ratepayers are receiving the best loan terms available through the subsidized loan program available through RICWFA. The Division is also satisfied that the \$4,400,000 cost amount associated with these two projects represents a reasonable projection of actual costs, as calculated by WWD's engineering consultants. On the issue of whether the proposed projects offer value and benefit to WWD's ratepayers, the Division finds that this question has already been thoroughly addressed by the several State agencies cited above, and by numerous City officials in Woonsocket; and that the record reflects an overwhelming consensus by these agencies and officials that these projects are in the interest of WWD's ratepayers. Based on this copious evidence of support, evident from the considerable travel of these well planned and approved projects, the Division finds insufficient cause to disturb the concomitant funding for these projects based on the limited public opposition received in this docket.

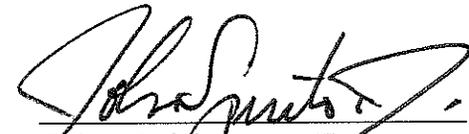
In the final analysis, predicated on a careful examination of the record in this matter, the Division finds that WWD's application seeking authority to enter into long-term debt and issue revenue bonds in an amount not to exceed \$4,400,000 as part of a DWSRF loan from the RICWFA to finance the initial costs associated with the procurement documents, preliminary design, and pilot testing, required to start the process towards construction of a new treatment facility, as well as the financing required for upgrades to the water system through an interconnection with the Town of Cumberland to be reasonable and in the best interest of ratepayers.

Now, therefore, it is

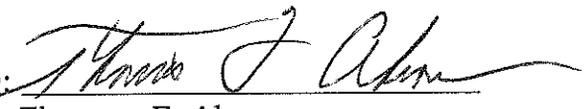
(21018) ORDERED:

1. That the City of Woonsocket Water Division's March 27, 2013 application seeking Division approval under R.I.G.L. §39-3-15 to borrow an amount not to exceed \$5,000,000 through revenue bonds sold by the RICWFA for the State's DWSRF, is hereby approved as modified by this Order to an amount not to exceed \$4,400,000.
2. That the Division hereby makes this approval contingent upon the WWD's use of the debt service allowance previously approved by the Commission, or if subsequently required, by additional debt service allowances approved by the 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 APRIL 25, 2013.



John Spirito, Jr., Esq.
Hearing Officer

APPROVED: 

Thomas F. Ahern
Administrator