

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: CITY OF NEWPORT WATER :  
DIVISION APPLICATION TO : DOCKET NO. 3578  
CHANGE RATE SCHEDULES :

**REPORT AND ORDER**

**Table of Contents**

I.	Introduction.....	1
II.	Newport Water’s Pre-Filed Testimony.....	2
III.	PWFD’s Pre-Filed Testimony.....	12
IV.	Navy’s Direct Testimony.....	24
V.	Division’s Direct Testimony.....	27
VI.	Newport Water’s Rebuttal.....	34
VII.	PWFD’s Surrebuttal.....	43
VIII.	Navy’s Surrebuttal.....	49
IX.	Division’s Surrebuttal.....	51
X.	Settlement.....	56
XI.	Hearing.....	59
XII.	Commission Findings - June 22, 2004 Open Meeting.....	63
XIII.	August 19, 2004 Open Meeting.....	69
XIV.	September 2, 2004 Open Meeting.....	69

**I. Introduction**

On November 28, 2003, the City of Newport, Utilities Department, Water Division (“Newport Water” or “Water Department”), a municipal utility, filed with the Public Utilities Commission (“Commission”) a rate application pursuant to R.I.G.L. § 39-3-11. In its filing, Newport Water requested a total revenue increase of 8.01%, to collect an additional \$606,662 for operating revenues, for a total revenue requirement of

\$8,173,251. The impact of this request on the typical residential ratepayer using 54,090 gallons annually, if granted, would result in an increase of \$10.50 per year or 4.47%. In accordance with Commission Order No. 16253 (issued June 19, 2000) and in compliance with R.I.G.L. § 46-15.4-6(8), Newport Water indicated that it filed a new cost of service allocation and rate design to implement flat retail rates. Newport Water requested an effective date of December 28, 2003. On December 18, 2003, the Commission suspended the effective date of Newport Water’s requested rate increase in order to conduct a full investigation and to hold public hearings.

The instant general rate case filing represents Newport Water’s fourth such filing in the last fifteen years. The following table provides a brief history:

Docket No.	Filing Date	Amount Requested	Amount Allowed
1978	7/31/90	\$2,250,819	\$1,458,727
2029	9/30/91	\$2,588,360	\$1,548,065
2985	5/28/99	\$1,893,179	\$ 449,419
3578	11/28/03	\$ 606,662	

**II. Newport Water’s Pre-filed Testimony**

In support of its application, Newport Water submitted the pre-filed testimony of Julia Forgue, P.E., Director of Public Works, City of Newport, Harold J. Smith, Vice President of Raftelis Financial Consulting (“RFC”), a consultant to Newport Water, and James C. Smith, City Manager, City of Newport.

Ms. Forgue testified that the revenue from current rates would not be sufficient to cover expenses for the 2004 fiscal year. She indicated that the proposed increased revenues would be allocated 68.3% to Operations and Maintenance (“O&M”) expenses,

30.2% to Capital Expenses, and 1.5% to “Additional Revenue Requirements.” In developing the revenue requirement, Newport Water utilized a test year from April 1, 2002 through March 31, 2003.<sup>1</sup>

Ms. Forgue addressed several of the issues raised in Commission Order No. 16253. She indicated that Newport Water has complied with the directive to develop rates based on the base-extra capacity method and has eliminated declining block rates. She noted that Newport Water has encountered difficulties in determining which department in the City of Newport has responsibility for maintaining certain data. She indicated that an update in the water billing system should improve this situation. According to Ms. Forgue, in July 2001, Newport Water complied with the Commission’s directive to create a revised billing format.<sup>2</sup>

Ms. Forgue stated that the restricted accounts ordered in Docket No. 2985 have been established. However, with regard to reporting on the Infrastructure Replacement Fund (“IFR”) and Capital expenditures, Ms. Forgue indicated that Newport Water has been operating without a detailed IFR or Capital Improvement Project (“CIP”) program. In fact, she indicated that some of the projects set forth for funding in Docket No. 2985 were not completed due to a lack of support from staff members. However, the City of Newport is required to file a new Infrastructure Replacement Plan with the Department of Health in July 2004. She indicated that at that time, the City will develop a detailed IFR and CIP program.<sup>3</sup>

Another issue surrounds Newport Water’s debt service. The Commission and Division of Public Utilities and Carriers (“Division”) previously authorized Newport

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<sup>1</sup> Newport Water Exhibit 1A (Pre-filed Testimony of Julia Forgue), pp. 2-3.

<sup>2</sup> Id. at 5-7.

<sup>3</sup> Id. at 6-7.

Water to borrow up to \$3,000,000 from the Drinking Water State Revolving Fund (“SRF”) to continue work on its CIP. However, as of the filing date in the instant case, Newport had not borrowed those funds and in fact, excluded this amount from this filing because the debt service is projected to begin in FY 2005.<sup>4</sup>

Addressing the operating budget, Ms. Forgue stated that the increases in Salaries and Wages, Employee Insurance and Retiree Insurance were driven by union contracts, which resulted in a 17% increase. Ms. Forgue also discussed increases in consulting costs, specifically related to depth surveys for all of Newport Water’s Island reservoirs at an estimated cost of \$45,000 to \$50,000 and attorney and consultant fees estimated at \$54,761 related to the current docket.<sup>5</sup> According to Ms. Forgue, Newport is also expecting an increase in Regulatory Expense. Newport Water requested funding of \$105,000, made up of \$85,000 for a Vulnerability Assessment and \$20,000 for a Consumer Confidence Report. She stated that the Consumer Confidence Report is a requirement of the Safe Drinking Water Act and the Vulnerability Assessment is a requirement of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.<sup>6</sup> In the area of Regulatory Assessment, Newport Water normalized the account with an adjustment in the amount of \$13,379. According to Ms. Forgue, this adjustment was necessary due to the test year not coinciding with the rate year.

Normalizing adjustments to Legal and Administrative fees led to a reduction of \$117,857 in those accounts while adjustments to the Data Processing accounts led to reductions of \$80,176. In the area of electricity, Newport Water has projected a net increase of \$33,586 in the rate year. Ms. Forgue indicated that prior accounting practices

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<sup>4</sup> Id. at 7-9.

<sup>5</sup> Id. at 10-11.

<sup>6</sup> Id. at 11

were inaccurate and that the amount included in this filing for electricity costs was based on current projections.<sup>7</sup>

Turning to chemicals, Newport requested an increase in chemical expense at Newport Station 1. Ms. Forgue explained that polymer use has increased in the summer months to reduce billowing sludge blankets when source water is warmer than optimal. For the Lawton Valley Plant, Newport Water requested an allowance of \$20,000 for short term recommendations to be identified in the Compliance Evaluation Study.

With regard to wastewater, Newport requested funding in the amount of \$104,000 for the Lawton Valley plant and \$144,000 for Newport Station 1 for a total of \$248,000, representing a net increase of \$88,282 over the Test Year amount of \$159,718. Ms. Forgue also discussed increases in Conferences and Training. She indicated that these increases were the result of re-certification costs for plant operators, fees to attend various conferences sponsored by the New England Water Works Association (“NEWWA”) and the Rhode Island Water Works Association (“RIWWA”).<sup>8</sup> Newport Water also requested an increase in Support Services of \$9,881. Ms Forgue explained the increase was necessary to pay for needed inspections of storage tanks, miscellaneous welding and metal fabrications.<sup>9</sup> Newport Water requested an increase of \$78,422 in the Repair and Maintenance Equipment account. Ms. Forgue explained the increase was based on actual recent expenses. Property Tax Assessments increased according to Ms. Forgue, leading to a requested increase of \$37,478.<sup>10</sup>

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<sup>7</sup> Id. at 13  
<sup>8</sup> Id. at 17  
<sup>9</sup> Id. at 18  
<sup>10</sup> Id. at 25

Newport Water also projected decreases in several operating expense areas. For example, overtime in the rate year is expected to decrease according to Ms. Forgue as a result of three (3) treatment plant vacancies being filled.<sup>11</sup>

Focusing on Accounts Receivable, Ms. Forgue noted that \$1,061,296 of receivables on Newport's books were uncollectible, consisting of \$364,539 of billing in error to Portsmouth Water in the early 1990's with the remaining \$696,757 being attributable to Navy receivables that are twenty (20) years old. The amounts were disputed and collection was not pursued.<sup>12</sup>

Next in her testimony, Ms. Forgue focused on Debt Service and Capital Outlay. In the area of Other Improvements, Newport requested an increase of \$335,578 primarily to fund a Supervisory Control and Data Acquisition ("SCADA") project.<sup>13</sup> The rate year included a new Equipment Replacement account with initial funding of \$73,586. The primary purpose of the account would be to provide for level funding and eliminate wide swings based on vehicle needs and costs. The life of a vehicle would be determined and the replacement cost divided by the life of the vehicle. Each year this amount would be transferred to the Equipment Replacement Account. Newport Water would purchase a replacement vehicle at the end of the existing vehicle's useful life. This would stabilize the amount need for equipment replacement.<sup>14</sup>

Ms. Forgue also explained that Newport Water wishes to repay monies due to the City of Newport in the amount of \$2,500,000 over five (5) years or \$500,000 per year. Ms. Forgue explained that Newport had not been consistently funding its restricted

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<sup>11</sup> Id. at 28

<sup>12</sup> Id. at 30

<sup>13</sup> Id. at 31

<sup>14</sup> Id. at 34

accounts in accordance with the order in Docket 2985. When this problem was discovered by Newport, the Department endeavored to correct the problem by transferring unrestricted cash to the restricted accounts. The result of the cash transfers was to put the unrestricted cash account in a negative position. Ms. Forgue concluded that the Water Department borrowed money from the City of Newport's General Fund to reverse the negative position. At June 30, 2003, the amount due to the City of Newport had grown to \$2,524,170 and was projected to grow to \$5,500,000 by June 30, 2004. Ms. Forgue stated that the City had become concerned that it could not afford to continue loaning money to the Water Department.<sup>15</sup>

In his pre-filed testimony, Mr. Harold J. Smith maintained that the current commodity rates and base charges are insufficient to meet the costs associated with the functional categories and customer service. He concluded that Newport required an increase in revenues of \$515,143 to properly fund O&M and capital costs. Mr. Smith explained that the proposed rate year was the year ended June 30, 2004 and the Test Year was the year ended March 31, 2003.<sup>16</sup>

Mr. Smith explained that in order to develop the revenue requirements for Newport Water, he made normalizing adjustments to the test year in the amount of \$484,779. Because the requested rate year funding levels included in his testimony were based on the fiscal year 2004 budget of Newport Water his pro forma adjustments to the rate year simply reflected the budgeted amount for FY 2004.<sup>17</sup> To develop the capital revenue requirements included in the filing, Mr. Smith averaged the forecasted spending

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<sup>15</sup> Id. at 35

<sup>16</sup> Newport Exhibit 2 (Pre-filed testimony of Harold J. Smith), p. 3

<sup>17</sup> Id. at 7-8, Schedule RFC 1, page 1 of 17.

for the fiscal years 2004 through 2008.<sup>18</sup> The debt service for an SRF loan was based on \$3 million which was authorized by the Commission in Docket No. 2985 and later approved by the Division in Docket No. D-02-3.<sup>19</sup>

Once Mr. Smith determined the revenues, he allocated costs among retail customers, the Navy and Portsmouth Water and Fire District (“PWFD”). The allocation matrix used by Mr. Smith to allocate each budget line item to three functional categories, meters and service, customer costs and fire protection was based on Schedule JDM-1, page 8 as filed on behalf of the Division in Docket 2985.<sup>20</sup> He noted that costs allocated to PWFD are associated with supply and treatment while those allocated to the Navy include supply, treatment and transmission costs. Likewise, costs from all three categories are allocated to retail customers. According to Mr. Smith, the allocation of the costs is based upon average flows from FY 1999 through FY 2003, with an adjustment for unsold water. The percentages derived are then utilized to calculate functional costs for PWFD, the Navy and retail customers.<sup>21</sup>

Mr. Smith prepared his cost of service study utilizing the base-extra capacity method.<sup>22</sup> Mr. Smith testified that it is not possible to separate the peak demand between

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<sup>18</sup> Id. at 8.

<sup>19</sup> Id. at 8-9. Newport Water did not follow through with obtaining the loan. Mr. Smith noted that the rate year does not include funds for repayment of the loan. Id. at 9.

<sup>20</sup> Id. at 10.

<sup>21</sup> Id. at 10-11.

<sup>22</sup> Base-extra capacity is the method of cost allocation in which the costs of service are classified to the functional cost components of base, extra capacity, and customer costs. Base costs are those that tend to vary with the total quantity of water used and operation under average load conditions. Costs included are operation and maintenance expenses of supply, treatment, pumping, and transmission and distribution facilities, and capital costs related to plant investment associated with servicing customers at a constant, or average, annual rate of use. Extra capacity costs are the costs of capital and operation and maintenance associated with meeting rate-of-use requirements in excess of the average rate-of-use requirements. Customer costs are those directly associated with serving customers, irrespective of the amount of water use. Such costs generally include meter reading, billing, accounting, and collecting expense, and maintenance and capital costs related to meters and associated services. AMERICAN WATER WORKS

the Navy, PWFD and retail customers. Therefore, he assumed that the peak flow data for the Lawton Valley Plant and the Newport Station One Plant apply to all customers in order to estimate an allocation percentage among the functional categories. He indicated that the percentages calculated for the supply and treatment functional categories are allocated only to base demand as there are no transmission or distribution costs for PWFD. The percentages for transmission and distribution allocation are equal for base and max day demand.<sup>23</sup>

He indicated that the base/extra capacity allocations for supply and treatment and transmission and distribution are used to estimate the functional costs related to base and max day demand for all customers. He noted that the allocation percentages for base demand for residential, commercial, governmental classes, the Navy and PWFD are calculated based on the actual metered flow data that the City of Newport provided, adjusted for unsold water. He calculated the annual flow for each class based on the average monthly demand for each class.<sup>24</sup> With regard to coincident versus non-coincident peaking demand, Mr. Smith testified that non-coincident extra capacity demand is calculated for all retail classes, the Navy and PWFD in accordance with the procedures in the American Water Well Association (“AWWA”) Manual.<sup>25</sup>

Mr. Smith noted that although using the reasonableness test prescribed by the AWWA Manual resulted in diversity factors for the max day capacity factors that fell outside of the prescribed range, “the unique nature of Newport [Water’s] usage patterns

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ASSOCIATION, MANUAL OF WATER SUPPLY PRACTICES: PRINCIPLES OF WATER RATES, FEES, AND CHARGES 321-25 (5<sup>th</sup> ed. 2000) (“AWWA Manual -1”).

<sup>23</sup> Newport Exhibit 2, pp. 11-12.

<sup>24</sup> Id. at 12.

<sup>25</sup> Id.

given its unique tourism industry may explain the difference between it and the average usage pattern for a water system similar in size.”<sup>26</sup>

Mr. Smith explained that the methodology for calculating the base/extra demand in his model is to estimate the metered data to determine the base demand. He then calculated the capacity flows for max day demand by multiplying the base demand by the non-coincident extra capacity factors. According to Mr. Smith, the extra capacity for max day demand is the difference between the total capacity flow for max day demand and the base flow. The resulting base/extra capacity flows are then used to determine the percentages to use to allocate costs associated with the average and max day demand already calculated. He then used these percentages to determine the base/extra capacity cost per customer class by functional activity.<sup>27</sup>

In order to calculate commodity rates for retail customers, the Navy and PWFD, Mr. Smith totaled the costs associated with base-extra capacity demand and divided those costs by each individual class average metered annual flow for fiscal years 1999 to 2003. While Mr. Smith calculated separate rates for the retail customer classes, an average of these rates will be charged to all retail customers.<sup>28</sup>

Mr. Smith provides two reasons for his averaging methodology. First, the individual rates are within 7% of one another and, second, Mr. Smith claimed that it would be difficult to distinguish between retail customer classes.<sup>29</sup> Referring to his revenue proof, Mr. Smith noted that although a revenue surplus would result under the proposed rates. Despite this, he stated that the difference between proposed and existing

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<sup>26</sup> Id. at 13.

<sup>27</sup> Id.

<sup>28</sup> Id. at 14.

<sup>29</sup> Id.

fire protection charges is small enough that no change is necessary to the existing fire protection charges.<sup>30</sup>

According to Mr. Smith, customers billed monthly will experience base charge decreases from \$11.00 per account to \$4.39 while those billed three times per year will experience increases to \$17.56. The commodity rate has been changed from declining blocks to a single rate for all usage.<sup>31</sup> The impact of Mr. Smith's adjustments results in an increase to the average residential customer, billed three times per year of \$3.50 per bill, or 4.47%.<sup>32</sup>

Mr. James Smith provided testimony "to point out the impact of the water utility's negative cash flow on the finances of the City government, schools and library."<sup>33</sup> Mr. Smith testified that when he started service as the City Manager of Newport, he realized that Newport Water would be running a \$3 million deficit. Subsequently, he learned that the shortfall did not include the required deposits to the restricted accounts. Therefore, the City, in order to protect the health, safety and welfare of the water system's users, advanced the funds to the Water Department. He indicated that by the end of FY 2004, Newport taxpayers will have lent the Water Department \$5.5 million from the General Fund. He maintained that this has resulted in the inability of the City to maintain its unrestricted fund balance reserves. He expressed concern that the City would be unable to pay for police, fire, streets and school bills. He stated that the Newport taxpayers have been providing a subsidy to all other ratepayers through this loan.<sup>34</sup>

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<sup>30</sup> Id. at 15-16.

<sup>31</sup> Id. at 16.

<sup>32</sup> Id. at Schedule RFC-7, p. 1 of 4.

<sup>33</sup> Newport Water Exhibit 3 (Pre-filed testimony of James Smith), p. 1.

<sup>34</sup> Id. at 1-2.

### **III. PWFD's Pre-Filed Testimony**

On March 12, 2004, PWFD submitted the Direct Testimony of Christopher P.N. Woodcock, President of Woodcock Associate, Inc., a financial consultant, William J. McGlinn, PWFD's General Manager and Chief Engineer, and Thomas B. Nicholson, P.E, President and Chief Engineer of C&E Engineering Partners, Inc.

Mr. Woodcock indicated that he found it very difficult to assess the data that Newport used to support its request for the rate increase. He noted that in the last docket, the Commission ordered Newport Water to undertake studies and adopt procedures that will allow ratepayers, like PWFD, to assess Newport Water's capital and operating expenses. He argued that Newport Water's failure to follow those orders, some of which are more than ten years old, makes it nearly impossible to determine what increases, if any, are justifiable. He indicated that PWFD is not opposed to paying its fair share for the efficient delivery of clean water to its residents, but is opposed to rate increases that are based upon data founded on guesswork and unsound methodology. He argued that Newport Water's rate filing is based on information that is unreliable. And further, he alleged that Newport Water's consistent failure to follow the Commission's orders has again led to a proposed rate increase that is neither fair nor predictable.<sup>35</sup>

He indicated that PWFD and the Division invested substantial amounts in the last docket to help arrive at a fair, albeit imperfect, rate schedule in the absence of critical information. He maintained that Newport has again failed to (a) conduct the studies that the Commission ordered it to conduct, (b) restrict the funds the Commission ordered restricted, (c) spend the restricted funds on the capital program they proposed, (d) present a capital program that would address the concerns PWFD raised, and (e) present a cost

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<sup>35</sup> PWFD Exhibit 1 (Pre-Filed Testimony of Christopher Woodcock), p. 3.

allocation study that accounted numerous issues presented in the prior docket. He argued that it is not fair to expect the Division and PWFD again to try to fill in the voids created by Newport Water's non-compliance with the Commission's Orders.<sup>36</sup>

Mr. Woodcock indicated that PWFD's key concerns were that Newport failed to conduct the demand study that he indicated the Commission acknowledged in its Report and Order as an integral and missing part in the prior docket. He maintained that this rate case is no different, and the Commission, the Division, and PWFD are left to assess Newport Water's filing in a factual vacuum.<sup>37</sup>

Mr. Woodcock asserted that the cost allocation study presented in this filing uses a methodology that the Commission specifically rejected in Docket No. 2985. He maintained that in the absence of the required data, Newport Water presented what is essentially a copy of the makeshift attempts that were made by PWFD and the Division in the last Docket to create a fair rate schedule in the absence of critical information.<sup>38</sup>

Mr. Woodcock noted that there appear to be a number of one-time expenses that have been presented as ongoing or recurring expenses. These should be classified as capital expenses or amortized over several years. He also expressed concern that Newport Water had not provided sufficient information upon which to justify repayment to the City of Newport.<sup>39</sup>

Mr. Woodcock disagreed with several of Newport Water's expenses, including (1) the reimbursement to the City due to what he characterized as Newport Water's failure to fund the restricted accounts and file for new rates in a timely manner; (2) one

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<sup>36</sup> Id. at 3-4.

<sup>37</sup> Id. at 4.

<sup>38</sup> Id. at 4-5.

<sup>39</sup> Id. at 6.

time or non-recurring costs such as the rate case expenses, lagoon cleaning, tank maintenance, and the vulnerability assessment expenses; (3) debt service where, he argued, the claimed amount is overstated due to the use of a prior year in deriving an average; and (4) \$85,000 of customer service revenues that would reduce the needed increase.<sup>40</sup>

Addressing repayment to the City of Newport, Mr. Woodcock noted that Newport Water claims that it owes the City General Fund some \$2.5 million. It proposes to repay \$500,000 per year in this filing with \$250,000 per year coming from rate revenues and \$250,000 per year transferred from its restricted debt service account. He noted that this plan would continue for five years. Mr. Woodcock argued that Newport Water should not be rewarded for its failure to comply with funding requirements. He argued that Newport Water was provided sufficient funds in Docket 2985. Furthermore, Mr. Woodcock maintained that despite repeated questions from PWFD and the Division, they have yet to disclose how the \$2.5 million amount was derived and what happened to the revenues that were supposed to be restricted. Mr. Woodcock argued that despite all the statements of new staff that they did not know, the responsibility remains that of the City.<sup>41</sup>

Mr. Woodcock also expressed concern that significant funds are needed for capital work and diverting \$250,000 per year from the debt service account does not make much sense. He argued that if the funding that Newport Water has requested is provided, it seems to send a message to Newport and the other utilities in Rhode Island that compliance with Commission orders is optional, and if you fail, there will be no

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<sup>40</sup> Id. at 7

<sup>41</sup> Id.

consequences. Mr. Woodcock maintained that the fault lies totally with the City of Newport. Portsmouth, Middletown and the Navy had no way of knowing that Newport Water was not complying with the Commission's orders. Therefore, Mr. Woodcock suggested that if the Commission believes that some refunding to the City is appropriate, the money should be taken exclusively from retail rates charged to Newport customers only. Mr. Woodcock also indicated that he believes the repayment request, if granted, could constitute retroactive ratemaking.<sup>42</sup>

Next, Mr. Woodcock indicated that there are a number of items that Newport Water has included as annual operating costs that are really one-time or infrequent expenses. As such, he maintained that Newport Water should not be provided annual funding for these items. The first item he addressed was rate case expense. He noted that Newport Water does not have a history of frequent filings and argued that \$200,000 per year is excessive. He recommended that the Commission establish a restricted rate case account. Further, he recommended that the rate case costs be spread over at least four years, given Newport Water's history of filing for rates at approximately five year intervals. Accordingly, he recommended that the Commission reduce the funding of the rate case costs by \$150,000, allowing an annual expense of \$50,000 for rate case expense.<sup>43</sup>

Regarding inclusion of an annual expense of \$50,000 for depth surveys of its reservoirs, Mr. Woodcock noted that this is not an annual expense, and should not be funded with other recurring operating costs. Mr. Woodcock recommended that it be funded through the restricted capital account as a one-time capital cost and that the

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<sup>42</sup> Id. at 8-9.

<sup>43</sup> Id. at 10-11.

operating costs be reduced by \$50,000.<sup>44</sup> Likewise, a request for \$105,000 for Regulatory Expenses in the Administration Division included \$85,000 for a Vulnerability Assessment, which is “a one-time effort.” Accordingly, Mr. Woodcock recommended the expense be treated as a capital expense rather than an annual operating cost. This recommended adjustment reduces the claimed increase by \$85,000.<sup>45</sup> Mr. Woodcock noted that Newport Water is seeking \$60,000 for a consultant to assist with repairs to its Reservoir Road tank, something which is not an annual expense and should not be funded as such. Therefore, he recommended that the expense of \$60,000 be removed from operating expenses and added to the capital program.<sup>46</sup>

Mr. Woodcock noted that the \$20,000 for the Consumer Confidence and other required reporting includes staff time for preparation and layout. He indicated that because all salaries and wages are already included elsewhere, labor costs should not be included in this line item as well. Mr. Woodcock also noted that postage, copying and mailing for the past two years were \$5,559 and \$5,370, respectively. Therefore, he stated that allowing for increases in these costs, a reasonable amount for the rate year should not exceed \$7,000. Accordingly, he recommended the \$20,000 be reduced by approximately \$13,000.<sup>47</sup>

Mr. Woodcock recommended eliminating Newport Water’s request of \$104,000 for new wastewater charges at the Lawton Valley Plant because completion will occur at least six months beyond the rate year in this docket. Therefore, he indicated that while Newport Water should receive sufficient revenues to pay these charges, he did not

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<sup>44</sup> Id. at 11-12

<sup>45</sup> Id. at 12.

<sup>46</sup> Id. at 12-13.

<sup>47</sup> Id.

believe the Department should be provided the revenues at this time. He asserted that by disallowing this expense, the Commission can help ensure that Newport returns in a reasonable timeframe with the analyses that were ordered in the prior docket and have some certainty of when this cost may be incurred.<sup>48</sup>

With regard to debt service, Mr. Woodcock noted that the annual debt service drops from \$1.724 million in FY 2004 to \$1.115 million in FY 2008. Mr. Woodcock conceded that providing the average annual amount (\$1,306,815) would not be sufficient to make the rate year payment, but noted that it is more than enough for all the following years. However, he stated that Newport Water can still make the FY 2004 payment using its debt service restricted fund which had a balance of nearly \$2 million at the beginning of the rate year. He maintained that providing the average annual amount will be sufficient to pay all the existing debt subsequent to FY 2005.<sup>49</sup>

Mr. Woodcock indicated that Newport Water had not accounted for \$85,000 of customer service revenues that they have indicated should be reflected in miscellaneous revenues. Including these has the effect of reducing the revenue requirements by that amount.<sup>50</sup>

Mr. Woodcock's adjustments would reduce rates by more than \$370,000 rather than increase them by \$515,143.<sup>51</sup> However, Mr. Woodcock suggested that rather than reducing rates, the Commission should provide no rate increase at this time, reduce the

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<sup>48</sup> Id. at 13.

<sup>49</sup> Id. at 13-14.

<sup>50</sup> Id. at 14-15.

<sup>51</sup> Id. at 15.

allowed operating costs as it deems appropriate, and require Newport to deposit any excess in its restricted capital accounts for future use.<sup>52</sup>

With regard to cost allocation issues, Mr. Woodcock maintained that there is insufficient reliable data upon which to allocate the costs. Mr. Woodcock expressed concern with the allocation of labor and related costs associated with pumping, with IFR costs, with the derivation of peak factors, with the treatment of unmetered or unaccounted-for water, with the units of service including fire services and retail water use by class, and with the use of a previously determined flawed model.<sup>53</sup>

Addressing pumping costs, Mr. Woodcock noted that Newport Water has acknowledged that PWFD does not use the pumping facilities and should not be assigned any of the costs. Accordingly, in the instant filing, Newport Water has allocated the electricity and repair costs associated with pumping in such a way so as not to assess PWFD with those costs. However, he asserted that other costs associated with pumping, such as labor, are assigned incorrectly. Mr. Woodcock stated that properly allocating the pumping labor not only reduces the direct labor costs, but also the share of overhead that is assigned to PWFD.<sup>54</sup>

Mr. Woodcock noted that the Commission has long held that IFR costs cannot be recovered through meter charges or fire protection charges and can only be recovered through metered rates. He stated that the IFR costs presented in this study are allocated and proposed to be recovered in contravention to the Commission's policies and statutory restrictions.<sup>55</sup>

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<sup>52</sup> Id.

<sup>53</sup> Id. at 16.

<sup>54</sup> Id. at 17.

<sup>55</sup> Id. at 18.

With regard to the derivation and use of peak factors, Mr. Woodcock stated that Mr. Harold Smith has tried to accomplish what the Commission asked for, but with the exception of the data provided by Portsmouth, he appeared to lack the background information that the Commission had ordered Newport to gather. As a result, Mr. Woodcock indicated that Mr. Smith utilized general information from the AWWA Rates Manual to try to create what Newport Water did not provide. Mr. Woodcock noted that the AWWA Rates Manual states that the information presented in the examples are illustrative only and should not just be used as a substitute for the information Newport Water should have provided. Mr. Woodcock conceded that the impacts are only relevant on the retail and Navy rates, but indicated that PWSB did want to point out that the peak demands that are assigned to various customers and customer classes are incorrect and result in allocations and rates that are incorrect.<sup>56</sup> Mr. Woodcock provided examples to support his claim, specifically addressing the calculation of the maximum day demand for PWFD, the derivation of the allocation factor for pumping, the derivation of the maximum day rations and the basis for calculating the retail peaking factors.<sup>57</sup>

With regard to “unaccounted for” water caused by water used in fire fighting, system use for cleaning and pressure tests, leaks in the system and under-registration of meters, Mr. Woodcock noted that in the cost allocation process it is necessary to determine which parties should be responsible for this water. All of PWFD’s water is supplied by Newport Water and only some is lost within the PWFD system. PWFD pays for all of that lost water because the losses occur after the master meter. In the case of

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<sup>56</sup> Id. at 18-19.

<sup>57</sup> Id. at 19-21.

retail service, there is no master meter; however, the total water use should be reflected in the charges to the retail customers in Newport Water.

Mr. Woodcock noted that Newport Water has tried to account for the lost water, but alleges Newport Water did so incorrectly. Mr. Woodcock maintained that Newport Water's calculations results in double counting. He indicated that certain errors have the effect of assigning too much of the treatment and supply costs to Portsmouth.<sup>58</sup>

Mr. Woodcock indicated that during discovery, Newport Water admitted that the classifications are suspect and admit that their conclusions about residential vs. non-residential peaking factors is inconsistent with the norm. Mr. Woodcock stated that the information is so suspect that Newport Water cannot recommend rates by class. Furthermore, Mr. Woodcock pointed to several inconsistencies discovered through discovery and argued that these inconsistencies highlight the unreliable nature of the data Newport is using in this rate filing and reinforces the need for Newport to perform a proper cost allocation study.<sup>59</sup>

Finally, Mr. Woodcock suggested that the cost allocation model that was submitted does not conform to the Commission's guidelines, indicating that the model presented by Newport Water does not address the real concerns raised in Docket No. 2985. Additionally, he indicated that the asset data that is the basis for spreading approximately 30% of the costs is largely based on fixed assets as of June 30, 2001. He indicated that the cost allocation study presented by Newport Water does not present a reasonable allocation of costs resulting in fair water rates and charges, but declined to create a new cost allocation study. Rather, he suggested that a simple uniform retail rate

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<sup>58</sup> Id. at 21-22.

<sup>59</sup> Id. at 22.

be put in place by dividing the retail metered rate revenue by the total retail sales. He indicated that this would be revenue neutral and eliminate the last declining block rate under the Commission's jurisdiction.<sup>60</sup>

Mr. McGlinn provided testimony describing the PWFD system, indicating that PWFD is a quasi-municipal, governmental agency created by an act of the Rhode Island General Assembly. The purpose of PWFD is to provide drinking water and water for fire protection to approximately ninety percent of mainland Portsmouth. PWFD is governed by a seven-member Administrative Board, which is elected by the registered voters within PWFD's boundaries. PWFD has its own transmission and distribution system, separate and apart from Newport Water. This system was built and funded by the PWFD ratepayers and taxpayers.<sup>61</sup>

According to Mr. McGlinn, PWFD purchases all of its water from Newport Water as a wholesale customer. He indicated that during the past five years, PWFD has purchased an average of 411 million gallons of water per year and estimated that during the current PWFD FYE April 30, 2004, PWFD will purchase 422 million gallons, or 1.12 million gallons per day.<sup>62</sup>

Mr. McGlinn explained that all of the water that PWFD purchases from Newport Water is drawn from Newport Water's 4.0 million gallon underground, treated water reservoir located at the Lawton Valley Plant. Pumps in the basement of the Lawton Valley plant supply the 4.0 million-gallon reservoir with treated water through a Newport Water 24-inch main. According to Mr. McGlinn, this reservoir does not receive water from the Station One Plant in Newport. He indicated that PWFD draws water from the

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<sup>60</sup> Id. at 22-24.

<sup>61</sup> PWFD Exhibit 2 (Pre-Filed Testimony of William McGlinn), p. 3.

<sup>62</sup> Id. at 4.

4.0 MG reservoir through its own 16-inch suction main and pump station. PWFD's suction main is connected to a NWD 16-inch main at a point approximately 63 feet from the 4.0 MG reservoir. Therefore, Mr. McGlinn stated that by using its own infrastructure, PWFD is drawing water directly from the Lawton Valley plant through the 4.0-MG underground reservoir.<sup>63</sup>

Addressing the means by which other Newport Water customers receive their water from the Lawton Valley plant, Mr. McGlinn indicated that the Navy has a ten inch connection that draws water from the 4.0-MG reservoir and the 24 inch main from the Lawton Valley plant, designed to supply the Melville area of Naval Station Newport, representing less than six percent of the Navy's total metered usage. The Lawton Valley pump station draws water from the 4.0-MG reservoir and the 24-inch main from the Lawton Valley plant to supply the medium pressure zone of Newport Water's distribution system. Those customers that receive water from the pump station include most of Newport Water's retail customers located in Middletown, all of Newport Water's retail customers located in Portsmouth, some Newport Water retail customers located in Newport and several Navy connections. Therefore, Mr. McGlinn argued, no costs of power, maintenance, capital expenses nor debt service for the Lawton Valley pump station should be borne by PWFD, but rather, should be allocable entirely to the Newport Water distribution system as the facility is not used by Newport Water to supply PWFD.<sup>64</sup> Additionally, Mr. McGlinn maintained that none of the water PWFD purchases is from the Station One Plant. Finally, Mr. McGlinn indicated that PWFD is unique

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<sup>63</sup> Id. at 4-5.

<sup>64</sup> Id. at 5.

compared to all other Newport Water customers because it purchases water directly from the Lawton Valley plant by using its own infrastructure.<sup>65</sup>

The remainder of Mr. McGlenn's testimony addressed PWFD's concerns regarding the levels of Trihalomethanes ("TTHM's") coming from Newport Water's system into PWFD's, causing PWFD to receive notices of violations of the Stage 1 Disinfection Byproducts Rule of the Federal Safe Drinking Water Act on five occasions, as recently as the second quarter of 2003. Additionally, PWFD received an Administrative Order from the Environmental Protection Agency ("EPA") requiring it to undertake a study to determine how to bring the system into compliance.<sup>66</sup>

Mr. Nicholson provided testimony regarding an engineering evaluation conducted by C&E Engineering during 2003 for PWFD. The study was undertaken in compliance with the EPA Administrative Order discussed by Mr. McGlenn. Mr. Nicholson indicated that the general findings concluded that PWFD's periods of non-compliance with EPA Regulations were a direct result of PWFD receiving water from Newport Water that had high levels of TTHM's. He noted that tests showed that within hours of leaving the Lawton Valley plant, TTHM's had increased from an average of 13 parts per billion to almost 80 parts per billion, levels that threaten both PWFD's and the Navy's ability to comply with EPA Regulations, making the quality a concern to the entire island and not just to PWFD. Mr. Nicholson noted that Newport Water changed its disinfection process slightly, resulting in an almost immediate reduction in TTHM levels by approximately 35 percent. He indicated that, although PWFD could put technology into place to treat the water, it would cost an estimated \$2 million for treatment a few hundred feet from the

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<sup>65</sup> Id. at 6-7.

<sup>66</sup> Id. at 9-22.

treatment facility to be borne entirely by PWFD ratepayers. According to Mr. Nicholson, this would not address the Navy's compliance issues. He maintained that it would make more sense to implement technology at the Lawton Valley plant to solve the problem for the entire island supply and pass the costs on to all ratepayers.<sup>67</sup>

#### **IV. Navy's Direct**

On March 12, 2004, the Navy submitted the Direct Testimony of Earnest Harwig, a consultant, and William Monaco, P.E., the Drinking Water Program Manager at Naval Station Newport Environmental Office. Mr. Harwig noted that Newport Water utilized the Base-Extra Capacity Method, which has been accepted by this Commission for allocating the costs of providing water service to customer classes. However, while noting that the methodology does not prescribe how each step in the methodology should be performed, there are some norms, which if departed from, cause a misallocation of costs among customer classes. According to Mr. Harwig, Newport Water's cost of service study departed from the norms.<sup>68</sup>

Mr. Harwig maintained that it was a "serious problem" that Newport Water does not have data upon which to estimate monthly peak demands or from which to extrapolate Maximum Day demands for each of its customer classes.<sup>69</sup> He indicated that Newport Water's attempt to solve the problem through an averaging exercise resulted in the understating of the non-coincident peak. Such understating has the effect of classifying excessive costs to the Base functions and insufficient costs with meeting Maximum Day demands.<sup>70</sup>

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<sup>67</sup> PWFD Exhibit 3 (Direct Testimony of C&E Engineering), pp. 3-5.

<sup>68</sup> Navy Exhibit 1 (Direct Testimony of Earnest Harwig), pp. 3-5.

<sup>69</sup> Id. at 5.

<sup>70</sup> Id.

Addressing Newport Water’s methodology of classifying the supply and treatment costs, Mr. Harwig maintained that “lump[ing] all supply and treatment costs together and classify[ing] them to the Base cost category” is not the conventional methodology and is improper because classifying treatment costs with the Base-only factor does not reflect cost-causation.<sup>71</sup> He explained that supply and treatment costs are normally separated, with the treatment costs being classified with the Base-Maximum Day factors. Supply costs, on the other hand, can be properly classified with the Base-only factor or the Base-Maximum Day factor. According to Mr. Harwig, classifying all supply and treatment costs with the Base-only factor has the effect of assigning costs solely on the basis of consumption volumes, regardless of the time when they occur. He maintained that customers with the highest peak demands are not assigned their proportionate share of cost responsibility whereas customers who use more water at a more level rate throughout the day are assigned costs that they did not cause to the utility.<sup>72</sup>

Addressing Newport Water’s methodology of classifying transmission and distribution costs, Mr. Harwig argued that the averaging process that was used understates the extent to which Newport Water’s supply and treatment facilities must meet Maximum Day demands.<sup>73</sup>

Addressing annual class consumption volumes, Mr. Harwig argued against the usage of average annual consumption plus the same growth factor for each class because while the residential class usage has increased, the Navy’s usage decreased over the same time period. Furthermore, he argued that the use of a five year average does not

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<sup>71</sup> Id. at 6.

<sup>72</sup> Id. at 6-7.

<sup>73</sup> Id. at 7-8.

accurately represent the recent experience of the utility and has the effect of overstating Navy usage while understating residential usage. He recommends use of a two year average.<sup>74</sup>

Addressing the Maximum Day ratio calculations, Mr. Harwig maintains that because of the lack of data and improper cost functionalization, Newport Water's cost of service study does not provide a supportable basis for designing customer class rates in the instant case. Therefore, Mr. Harwig indicated that he performed his own calculations in accordance with the AWWA Manual M-1 and developed rates based on Newport Water's requested revenues. His cost study resulted in higher rates for the residential (12.28%) and PWFD customers (4.15%) and lower rates for commercial (-8.47%), government (-13.93%) and Navy (-9.96%) customers than those proposed by Newport Water.<sup>75</sup> He made no comment on the propriety of the requested revenue increase.<sup>76</sup>

Mr. Monaco provided testimony regarding the water quality issues, specifically those related to TTHMs. He explained that the Navy purchases water from Newport Water through fourteen interconnections. Once the water enters the Navy distribution system, chlorine is added at various points. Mr. Monaco indicated that chlorine is added to maintain residual levels to the system endpoints. He noted that maintaining the required level of chlorine can cause reactions with organic and inorganic matter, creating disinfectant byproducts such as TTHMs. Elevated levels of TTHMs cause a distribution system to be out of compliance with EPA regulations. Mr. Monaco noted that the

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<sup>74</sup> Id. at 9-10.

<sup>75</sup> Id. at 11-13, Schedules EH-1, EH-2.

<sup>76</sup> Id. at 14.

problem is exacerbated when the water enters the Navy's distribution system with elevated levels of TTHMs.<sup>77</sup>

According to Mr. Monaco, because of an EPA finding of noncompliance, the Navy undertook a study to determine the reason for the elevated TTHMs and to take actions to rectify the problem. Mr. Monaco indicated that the Navy has cut and capped three areas of the system that had "no demand," has established a Flushing Program and a Valve Exercise Program, has implemented a new monitoring system, and has increased sampling.<sup>78</sup> He stated that "unfortunately, there has been very little improvement with the TTHM sample results. The extra testing identified the elevated incoming TTHMs."<sup>79</sup> He indicated that the Navy has looked into the possibility of installing additional treatment systems at a cost of one million dollars. However, Mr. Monaco maintained that such expense would not be necessary, and it would be more appropriate, if the treatment issues are addressed at the primary treatment plants rather than at the Navy's meters.<sup>80</sup>

## **V. Division's Direct**

On March 12, 2004, the Division submitted the Pre-filed Direct Testimony of Thomas S. Catlin, its rate consultant. Mr. Catlin argued that because Newport Water used its FYE 2004 budget as its claimed rate year cost of service, "the claimed expenses are not directly derived from or linked to the test year expenses in many cases." Mr. Catlin stated that he had identified many line items that are questionable.<sup>81</sup> Mr. Catlin concluded that Newport Water should not receive any increase in the proceeding, noting that although O&M expenses have increased since the last rate case, Newport Water had

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<sup>77</sup> Navy Exhibit 2 (Direct Testimony of William Monaco), pp. 1-2.

<sup>78</sup> *Id.* at 3.

<sup>79</sup> *Id.* at 4.

<sup>80</sup> *Id.*

<sup>81</sup> Division Exhibit 1 (Direct Testimony of Thomas Catlin), pp. 4-5.

not expended the funds provided in debt service and cash capital outlays, leaving significant balances in those restricted accounts which could be drawn upon over the next several years. In fact, Mr. Catlin indicated that he could have recommended a rate decrease, but that the Company would have most likely required a rate increase in the near future. Therefore, rather than reducing rates and then increasing them, in the interest of rate stability, Mr. Catlin recommended that the funding of the restricted capital spending account be increased and the overall revenue requirement remain stable. Thus, any increases to Newport Water's costs that exceed Mr. Catlin's recommendations would not affect the overall revenue requirement unless the total amount of the adjustments exceeds \$462,623, the recommended increase to the capital outlay restricted account.<sup>82</sup> Mr. Catlin also addressed Newport Water's proposed cost allocations.

Mr. Catlin next explained his specific adjustments, which total a \$481,667 reduction from Newport Water's filed rate year expenses and a \$124,995 projected increase from Newport Water's filed rate year revenues.<sup>83</sup> With regard to fire service revenues, Mr. Catlin made an adjustment to reflect the number of private fire services as of December 31, 2003 and the number of public hydrants as of January 2004, to reflect new service that was activated in January. His adjustment represents an increase to revenues of \$21,995 compared to Newport Water's filing.<sup>84</sup>

With regard to miscellaneous revenue, Mr. Catlin made two adjustments by first, increasing it by \$85,000 to include Customer Service Revenue that Newport Water identified but failed to include and second, adjusting rate year interest income to reflect a

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<sup>82</sup> Id. at 5-6.

<sup>83</sup> Id. at Schedule TSC-1.

<sup>84</sup> Id. at 7.

total of \$38,000 based on the actual interest income for six months. The total adjustment results in a total increase to miscellaneous revenues of \$103,000.<sup>85</sup>

Addressing Benefits Expense, Mr. Catlin adjusted the expense downward by \$96,178 by calculating his recommended allowance by annualizing costs for the first seven months of FY 2004. Mr. Catlin explained that his adjustment included higher costs in the amount of \$2,937.30 for workers' compensation insurance.<sup>86</sup>

With regard to rate case expense, Mr. Catlin proposed the costs be normalized over two years after adjustment at the end of the case to include actual costs. Additionally, he reduced Newport Water's claim by \$100,000, noting that the Company's \$200,000 estimate appeared high. He also maintained that Newport Water's regulatory reporting expenses were overstated and made a downward adjustment of \$15,330 to the rate year expense.<sup>87</sup>

Turning to electricity costs, Mr. Catlin noted that a comparison of FY 2003 actual costs and the costs of the most recent twelve month period with the budgeted electricity costs for FY 2004 shows that actual costs have been lower than budget. Mr. Catlin indicated that he would adjust electricity expense to reflect the average annual costs based on actual costs for the 24 months ending January 2004, resulting in a recommended reduction to the allowance for electricity costs by \$69,287.<sup>88</sup>

With regard to chemical costs, Mr. Catlin noted that even when the maximum usage quantities in any of the previous three years are used to determine annual cost, the claimed chemical expense for the two treatment plants is still a total of \$93,000 less than

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<sup>85</sup> Id. at 8.

<sup>86</sup> Id. at 9-10.

<sup>87</sup> Id. at 10-12.

<sup>88</sup> Id. at 13-14.

the Company's claim. Mr. Catlin recommended reducing the Company's claim by \$93,988, for a total to be contributed to the restricted account of \$348,012.<sup>89</sup>

Addressing sewer use fees, Mr. Catlin argued that it would be premature to include sewer use fees for the disposal of sludge from the Lawton Valley Plant because the necessary connections are not yet in place. This adjustment reduces rate year O&M expenses by \$104,000.<sup>90</sup>

Turning to conference and training expense, Mr. Catlin proposed to adjust the allowed expense to reflect the average costs incurred in FY 2002 and FY 2003, for a resulting reduction of \$8,645. Similarly, Mr. Catlin adjusted telephone and communications expense to reflect the rate year level that will actually be incurred as opposed to that which was budgeted. This resulted in a downward reduction in rate year expense of \$6,743.<sup>91</sup>

Mr. Catlin also made adjustments to remove certain items from the O&M expense category and to treat them as capital expense items. These items include: \$50,000 for depth surveys for all of the Island reservoirs; \$85,000 for a Vulnerability Assessment; and \$58,000 to engage an engineer to plan and specify the scope of work to make repairs to the Reservoir Road Tank. Mr. Catlin maintained that these costs appear to be more appropriately classified as capital expenses, they are all non-recurring or periodic and should not be included as recurring annual expenses, they are not known and certain, and there may be funding outside of rates for some of the projects. The result is a decrease in

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<sup>89</sup> Id. at 14-16.

<sup>90</sup> Id. at 16-17.

<sup>91</sup> Id. at 16-18.

O&M expense of \$193,000. Additionally, because the capital outlay account is overfunded, the net result is a decrease in Newport Water's cost of service of \$193,000.<sup>92</sup>

Turning to the Payment from Newport Water to the City of Newport, Mr. Catlin stated that Newport Water had "not prepared any analysis of revenues and expenses since June 2000 showing the build-up of the claimed deficiency," making evaluation of its accuracy impossible. Additionally, Mr. Catlin noted that if Newport Water's rates had proven inadequate to meet costs, the Company should have filed for rate relief prior to the instant filing. He argued that "[a]llowing Newport [Water] to recover this claimed deficiency effectively excuses the Water Division and the City for failing to properly monitor and manage the finances and rates of the Water Division."<sup>93</sup>

In response to Newport Water's contention that there a deficiency would not have existed but for the fact that so much of the revenues were transferred to restricted accounts despite money not having been expended from those accounts, Mr. Catlin argued that the fundamental purpose for establishing restricted accounts is to ensure that funds are available for large capital projects requested by the utility. After analyzing Newport Water's collections practices, Mr. Catlin concluded that of the claimed \$2.5 million deficiency, he could account for \$717,343. Therefore, he recommended that \$717,343 be withdrawn from the debt service account and returned to the City of Newport for FY 2001 through FY 2003.<sup>94</sup>

Reviewing Newport Water's restricted accounts, Mr. Catlin noted that both the capital outlay and debt service accounts were overfunded due to the fact that Newport Water had not undertaken the projects for which the funds were approved. However, Mr.

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<sup>92</sup> Id. at 18-19.

<sup>93</sup> Id. at 19-20.

<sup>94</sup> Id. at 21-23.

Catlin expressed concern that Newport Water will require additional funds to meet its capital needs as it undertakes previously delayed projects. Therefore, he recommended increasing annual funding by \$462,623 to match costs with revenues at present rates rather than reducing rates only to then have to raise them in the near future.<sup>95</sup>

Turning to the issue of cost allocation, Mr. Catlin maintained that it is reasonable for Newport Water to utilize the base-extra capacity method. However, he expressed concern with the specific cost functionalization and allocation procedures used by Newport Water in its study. With regard to the procedures that were used to assign costs to cost functions, Mr. Catlin made five adjustments to appropriately assign costs to each function.<sup>96</sup> Specifically referring to capital costs, Mr. Catlin stated that “the allocation of all capital costs on the basis of net investment is necessary to maintain consistency from case to case and to avoid fluctuations in rates.” This methodology ensures that these costs are allocated in a fair and consistent manner to avoid fluctuations in cost responsibility.<sup>97</sup> Referring to the investment allocator used to allocate IFR costs, Mr. Catlin maintained that, consistent with past Commission findings, fire service investment should be excluded from the calculation of the IFR allocator because IFR is funded through consumption rates rather than through flat rates. In addition, Mr. Catlin indicated that in developing the net investment allocator for IFR costs, Meter and Service related IFR costs should be reassigned to the Transmission and Distribution functions on the basis of investment in those two categories.<sup>98</sup>

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<sup>95</sup> Id. at 24-25.

<sup>96</sup> Id. at 25-29.

<sup>97</sup> Id. at 29.

<sup>98</sup> Id.

With regard to the procedures used to allocate costs to various customer classes, Mr. Catlin indicated that his primary concern was the development of the peak day demand factors used to allocate extra-capacity related costs to customer classes because of the lack of monthly data. He maintained that it is likely that the residential class peak day demand is understated as compared to other classes. However, Mr. Catlin did not believe that a different methodology would significantly change the retail rates that would be charged. Therefore, he did not recommend that Newport Water recalculate the demand factors in the instant case.<sup>99</sup>

Mr. Catlin also noted that Newport Water had not allocated any Meter & Services or Customer Costs to fire service on the basis that because fire service accounts are billed on an annual basis and are not metered, the billing costs are negligible. However, Mr. Catlin noted that while the overall total of costs due from fire service may not be significant, the billing cost should be included in the rate. Therefore, in recognition that 20 percent of the total costs included in the customer charge from Newport Water's cost study as related to billing indicates that the average cost to bill the fire service is over \$3.00. However, Mr. Catlin did not prepare a revised cost study because the cost in doing so would have been too costly to Newport Water's customers when compared to the resulting benefit.<sup>100</sup>

Turning to rate design, Mr. Catlin recommended that Newport Water's existing rates remain in place, with the exception of a flat commodity rates for retail water service. According to Mr. Catlin, because Newport Water cannot easily distinguish customer classes and commodity costs do not differ significantly by customer class, a

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<sup>99</sup> Id. at 29-31.

<sup>100</sup> Id. at 31-32.

single commodity rate is reasonable. According to his calculations, the uniform retail commodity rate should be set at \$3.38 per thousand gallons. With regard to the calculation of the customer charge, Mr. Catlin maintained that the customer charge should not vary with billing frequency. Finally, Mr. Catlin noted that Newport Water has proposed two new tariff rates for 5/8 inch and 2 inch diameter private fire service. Mr. Catlin agreed that this would be appropriate and recommended that two additional rates be tariffed, for 3/4 inch and 1 inch fire service lines. With regard to the one inch and smaller fire services, Mr. Catlin recommended a rate of \$11.00.<sup>101</sup>

## **VI. Newport Water's Rebuttal**

On April 20, 2004, Newport Water filed the Rebuttal Testimony of Julia Forgue. Ms. Forgue devoted a portion of her Rebuttal to defending the repayment of \$2,500,000 to the City of Newport. In response to PWFD's Direct testimony recommending that the Commission disallow repayment to the City, she stated that Newport Water did not deliberately fail to fund restricted accounts or monitor expenditures. She pointed to the fact that City officials working on the current docket were not employed by the City or Water Department at the time Docket 2985 was litigated. She claimed "The current City officials are essentially trying to rectify a number of problems created by our predecessors."<sup>102</sup> Additionally, according to Ms. Forgue, Newport City officials were disturbed by PWFD and Division recommendations that funds loaned by the City to the Water Department not be repaid. As such, the City indicated it would no longer advance money to the Water Department.<sup>103</sup>

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<sup>101</sup> *Id.* at 32-34.

<sup>102</sup> Newport Exhibit 4, pp. 3

<sup>103</sup> *Id.* at 13

In response to the Division's recommendation that the amount allowed for employee training be reduced, Ms. Forgue explained that Newport Water staff had been unable to attend several national and regional conferences in 2003 as they were preoccupied with addressing the needs of the Water Department. Further, she explained Newport Water's operators must take part in a minimum level of training each year in order to maintain their certification.<sup>104</sup>

Addressing the Vulnerability Assessment, Ms. Forgue explained that a contract was awarded in the amount of \$34,000. She also argued that the requested funding for the project not be reduced from \$85,000 to \$34,000 as Newport Water's intention was to use any remaining funds to implement recommendations coming out of the Assessment.<sup>105</sup>

In his direct testimony, Mr. Catlin, on behalf of the Division, recommended the request for employee benefits be reduced by \$96,178. In rebuttal, Ms. Forgue concedes that while benefit costs for FY 2003-2004 are lower than the amount requested in the filing by \$48,903, the requested funding should be approved to cover anticipated increases in FY 2004-2005 in the areas of retirement, life and dental insurance. Additionally, health insurance rates had not been determined and the union contract had not been finalized at the time of filing.<sup>106</sup>

Ms. Forgue explained that while Newport Water had received authorization in Division Docket D-02-03 to borrow up to \$3 million from the Rhode Island Clean Water Finance Agency, Newport Water had not borrowed the money. She stated that until the

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<sup>104</sup> Id. at 14-15

<sup>105</sup> Id. at 15

<sup>106</sup> Id. at 16

current case was decided, Newport Water could not be sure it would have the cash available to service the debt.<sup>107</sup>

Turning to water quality issues raised in the direct testimony of the Navy and PWFD, Ms. Forgue explained that the EPA and the Rhode Island Department of Health (“RIDOH”) are addressing the quality issues raised by the Navy and PWFD. As such, Ms. Forgue argued that the issue of water quality should be excluded from this docket.<sup>108</sup> Nevertheless, Ms. Forgue devoted a portion of her rebuttal to these issues. She stated that the testimony of both the Navy and PWFD paint Newport Water as the sole cause of water quality problems in their respective systems and that such portrayal oversimplifies the issue.<sup>109</sup> In discussing Newport’s attempts to rectify the water quality problems, Ms. Forgue explained that an adjustment to one part of the treatment process has an impact on the entire process to the extent that adjusting treatment to meet one standard can cause non-compliance in another standard. Ms. Forgue further explained that in January 2002, revised treatment rules went into effect forcing Newport to re-balance their treatment process. This rebalancing caused an increase in the level of TTHM. Ms. Forgue did emphasize, however, that the TTHM problem experienced by PWFD was essentially caused by one bad quarter in 2002.<sup>110</sup>

In December of 2002, staff of Newport Water met with representatives of the EPA and RIDOH to discuss the TTHM violation that had occurred. At the meeting, according to Ms. Forgue, although it was acknowledged that the Newport system was complex and challenging, the EPA determined that Newport was still responsible for

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<sup>107</sup> Id. at 17

<sup>108</sup> Id. at 20

<sup>109</sup> Id. at 20

<sup>110</sup> Id. at 24

compliance. As a result, Newport Water was informed that an Administrative Order would be issued. Ms. Forgue indicated that at the meeting, Newport Water explained that it had planned to hire an engineering firm to conduct a study of the treatment facilities for future compliance issues. Also at the meeting, Ms. Forgue informed the EPA and RIDOH the schedule for the study would be accelerated. At the date of filing her rebuttal Ms. Forgue explained that Newport had not been issued any order relating to violations in the PWFD system and that Newport Water had provided all information requested by regulatory bodies relating to water quality issues.<sup>111</sup>

Turning to the recommendations offered in the Final Compliance Evaluation Report, Ms. Forgue stated the consultant recommended the addition of chloramines and that free chlorine can be converted to chloramines with the addition of ammonia, the expectation being this change in treatment would aid Newport in maintaining compliance.<sup>112</sup>

Looking toward the future, Ms. Forgue stated that EPA representatives indicated secondary water systems, such as PWFD and the Navy, are responsible for water quality in their systems. In the future, Newport may not be able to meet all standards for compliance in the secondary systems of PWFD and the Navy. As standards grow more stringent, PWFD and the Navy may need additional treatment capabilities in place to accommodate system specific conditions.<sup>113</sup>

At the conclusion of her rebuttal, Ms. Forgue summarized by stating the original filing did not address water quality due to the fact that Newport did not believe it would be prudent to delay its filing until the completion of the compliance evaluation (filing

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<sup>111</sup> Id. at 24-25

<sup>112</sup> Id. at 26

<sup>113</sup> Id. at 29

made in November 2003, compliance evaluation completed in February 2004). She indicated that Newport had expected to return to the Commission after the evaluations were completed and the City had developed a strategy for implementing and funding the recommended improvements.<sup>114</sup>

In his rebuttal testimony Harold Smith, on behalf of Newport Water, conceded to several points made by the Division and PWFD. There were, however, still a number of disputed items. In response to testimony that stated the Capital Account was overfunded to such a degree that contributions to the account were no longer needed, he explained that Newport Water had analyzed projects that are planned through 2008. Mr. Smith claimed this analysis identified additional ongoing funding requirements for the account of \$40,000.<sup>115</sup>

In response to a Division argument that electric expense should be reduced by \$379,000, Mr. Smith argued that Newport Water had used 9 months of actual expense in FY 2004 and annualized that expense to arrive at approximately \$371,000. Newport Water then added an additional \$8,000 for anticipated pumping costs at the Mainland Reservoirs.<sup>116</sup>

In the area of chemical costs, the Division had testified the funding request should be reduced by \$93,989. Mr. Smith agreed that a downward adjustment was appropriate, but argued the adjustment should be \$59,130 based on annualized FY 2004 costs. Turning to Conference & Training expenses, Mr. Smith argued that funding for these items should be allowed at \$12,000 and not reduced by \$8,645 as recommended by the Division. Mr. Smith argued that attendance at conferences exposes employees to the

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<sup>114</sup> Id. at 30

<sup>115</sup> Newport Exhibit 5 (Rebuttal Testimony of Harold J. Smith), pg 5

<sup>116</sup> Id. at 7

latest technology and operating and management practices which can then be applied to make the utility that much more efficient.<sup>117</sup>

In defending the repayment to the City, Mr. Smith stated that funding \$250,000 of the requested \$500,000 repayment from the Debt Service Restricted Account will not cause Newport Water to be unable to meet its debt service obligations.<sup>118</sup>

In discussing the total revenue requirement, Smith explained that the revised request for total revenues was \$8,055,928. He also went on to state that revenues at that level would over-collect \$200,000 from Newport Water's fire service accounts. Mr. Smith indicated the discrepancy would be addressed in Newport Water's next rate filing. Until such time, he recommended that the over-collection be deposited into a restricted account that could be used to offset future fire service charges.<sup>119</sup>

In the area of cost allocation, Mr. Smith defended his work product by stating that the proposed rate increase is based on an allocation of costs using the base/extra capacity cost allocation methodology rather than "guesswork and unsound methodology" as alleged by PWFD.<sup>120</sup>

In response to allegations by PWFD that Newport Water simply did not comply with the Commission's Order in Docket 2985, Mr. Smith offered that Newport Water did attempt to develop flat retail commodity rates for a minimum of three retail rate classes as directed but that during the cost allocation study, it became apparent that historical data to support the rates for each class was lacking. He noted that Newport Water went on to develop a uniform retail commodity rate based on the average of individual rates

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<sup>117</sup> Id. at 8

<sup>118</sup> Id. at 10

<sup>119</sup> Id. at 10

<sup>120</sup> Id. at 11

calculated for each customer class.<sup>121</sup> In response to a statement made by PWFD claiming that Newport Water failed to conduct a demand study that was ordered by the Commission in Docket 2985, Mr. Smith claimed that nowhere in the order could he locate such a directive. He did acknowledge however that the Commission directed Newport Water to begin accumulating data relating to the average day use and maximum day use by customer class. Mr. Smith stated that while Newport Water did not conduct a formal study, Newport Water, along with its consultants, put forth a considerable effort to extract historical customer demand data from the City's antiquated billing system. He admitted there were some deficiencies in the data but that it was significantly better than the data provided in the last filing.<sup>122</sup>

Turning to cost allocation, Mr. Smith addressed an allegation by PWFD that the cost allocation model developed by RFC for Newport Water was nothing more than a copy of the allocation model developed by Division consultant Jerome Mierzwa in Docket 2985. Mr. Smith contended that the similarities between the two models could be expected of any two cost allocation models that use the base/extra capacity methodology.<sup>123</sup>

With regard to peaking factors developed by RFC for use in the cost allocation model, the Division, PWFD and the Navy had each made note that peaking factors based on tertiary billing data does not provide an accurate picture of demand characteristics of a particular customer class. In response, Smith pointed out that since Newport Water does not read meters on a monthly basis, historical monthly data is not available. In light of the

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<sup>121</sup> Id. at 13

<sup>122</sup> Id. at 13

<sup>123</sup> Id. at 18

limits of the available data, the average of the individual class rates were calculated based on the limited data available to determine class specific factors.<sup>124</sup>

In response to criticism regarding the calculation of system maximum day and maximum hour factors, Smith explained his methodology. Since both factors were determined in much the same manner, he chose to explain the derivation of the maximum day factor. He stated that the average of the sum of the maximum days during each month at the two treatment plants for each of three years was calculated. The average of the three resulting values was then calculated. He then conceded that the approach most likely understated the system wide maximum day and maximum hour. As part of his rebuttal, he revised this calculation by assuming that the sum of the maximum production at both plants over the course of each of the three years was a high approximation of the system wide maximum day in that year. To recognize the fact that the resulting value overstated the true maximum day in each year, the average of these three values was then used as the system wide maximum day. The result of the revised calculations increased the maximum day from 9.7 MGD to 12.6 MGD and increased the maximum hour value from 12.9 MGD to 15.7 MGD.<sup>125</sup>

In response to a criticism by PWFD regarding the peaking factors used to allocate costs to customer classes, Mr. Smith admitted that when the model was being developed, the developers were not aware that monthly consumption data used was based on meter reading intervals that were greater than 30 or 31 days. The revised cost allocation model relied on consumption data that was provided by PWFD's SCADA system. In response to testimony by PWFD asserting that the maximum day ratios used in the cost allocation

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<sup>124</sup> Id. at 24

<sup>125</sup> Id. at 25

model are derived directly from the AWWA Manual, Mr. Smith stated the values taken from the AWWA Manual are included for reference purposes only and that RFC in fact developed peaking factors utilizing data provided by Newport Water. He further went on to explain that the only values taken from the AWWA Manual were those that were used to develop non-coincident peaking factors. Mr. Smith noted, however, that those adjustment factors were a reasonable approximation of weekly usage patterns that would be typical of Newport Water's customers.<sup>126</sup>

In response to an argument by the Navy that three years of historical data be used to calculate projected rate year consumption for each rate class, Mr. Smith argued that use of five years of data minimized the impact of demand changes resulting from weather fluctuations. He stated that consumption from one year to the next is changed as a result of a change in make-up or size of the service area and that five years of historical data should provide a reasonable base of information to approximate the level of consumption that can be expected in the rate year. He claimed there was no significant change in the make-up or size of Newport Water's service area in the five years covered by the data used.<sup>127</sup>

In rebuttal, Mr. Smith explained that Mr. Harwig, on behalf of the Navy, developed his own peaking factors that do not rely on information gathered by Newport Water. He argued that while the data available from Newport Water was flawed, it was still the best data available. Furthermore, he stated that when Mr. Harwig developed

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<sup>126</sup> Id. at 29

<sup>127</sup> Id. at 30

peaking factors based on his experience and judgment, he eliminated a link that made the cost study specific to Newport Water.<sup>128</sup>

## **VII. PWFD's Surrebuttal**

On May 17, 2004, PWFD submitted the Surrebuttal Testimony of Christopher P.N. Woodcock, William J. McGlenn and Thomas B. Nicholson. Mr. Woodcock reiterated much of his original testimony, maintaining that Newport Water has not collected data that would allow the parties to determine the appropriate rates and charges. He further argued that Newport cannot explain what led to Newport's need to borrow \$2.5 million from the City of Newport. According to Mr. Woodcock, his analysis showed that Newport's operating expenses exceeded those allowed in Docket No. 2985. Mr. Woodcock noted that a portion of the over-spending could be explained as an accounting misallocation of capital expenses to the operating expenses line item, but according to Mr. Woodcock, this explanation does not provide the full answer. Furthermore, he stated that Newport Water was aware as early as the end of 2002 that the Company did not have sufficient funds, but waited two years to file a rate case, opting to borrow money from the City instead. Therefore, Mr. Woodcock argued that Newport Water should be held accountable for its own "uncontrolled spending" and thus, should not be authorized to repay the City through future rates. He argued that it was Newport Water and not the Navy or Portsmouth who caused Newport Water to overspend. He maintained that to allow such a request would send the wrong signal to utilities that there are no consequences for failure to comply with Commission orders or to file for rate relief in a timely manner and would further be retroactive ratemaking.<sup>129</sup>

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<sup>128</sup> *Id.* at 31

<sup>129</sup> PWFD Exhibit 4 (Surrebuttal Testimony of Christopher Woodcock), pp. 1-6.

Addressing Newport Water's contention that Portsmouth should be allocated a portion of Newport Water's transmission costs, Mr. Woodcock maintained that although Newport Water must transport water from one system (referring to Lawton Valley) to another (referring to Newport Station One), such requirement is not a direct result of Portsmouth's water purchases because Portsmouth takes all of its water from only Lawton Valley, making no use of Newport Water's transmission system.<sup>130</sup>

Turning to Newport Water's pumping labor, Mr. Woodcock questioned how Newport Water can only devote one hour of labor every twelve days, or thirty hours per year, to its distribution pipes. He also expressed concern regarding the derivation of the new allocator G. Mr. Woodcock indicated that holiday, sick and vacation pay, which amounted to 15% of the total labor costs in the test year, were not accounted for in Mr. Smith's calculations, causing pumping labor costs to be understated. Mr. Woodcock conceded that if the Commission finds that Newport has not justified a rate increase or a revision to cost allocations among classes, this may be a moot point in the instant rate case, but one that should be addressed in the next filing.<sup>131</sup>

However, Mr. Woodcock expressed concern regarding variations in the supply and treatment categories that result in charges that are shared by Portsmouth, particularly when compared to transmission and distribution costs that are not included in the rates charged to Portsmouth. He maintained that a review of salaries indicates that current salary costs associated with supply and treatment appear to be significantly less than those upon which the proposed rates are based. Therefore, a redistribution of current

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<sup>130</sup> Id. at 7.

<sup>131</sup> Id. at 7-8.

salaries results in a reduction of the charges to Portsmouth by more than 3.3%, or \$25,000 per year.<sup>132</sup>

Mr. Woodcock argued that Newport Water has not justified a revision to its rate structure and accordingly, under the Commission's past practice, Newport Water can only adjust its rates through an across-the-board application. However, because the law requires the elimination of a declining block rate structure, Mr. Woodcock agreed that the Commission has the right and duty to establish a uniform retail rate for all water use. However, he argued that that should not be accomplished by rounding up every rate for Portsmouth, regardless of whether or not the last number after the decimal point is above or below five. Such rounding practices result in excess charges to Portsmouth of \$4,200 per year.<sup>133</sup>

Turning to rate case costs, Mr. Woodcock agreed that they should be based on actual costs, but should not be recovered over a two year period because of his belief that most of the costs incurred have already been paid. He argued that such an allowance would "result in a windfall for Newport" Water. Therefore, he again recommended the Commission set a reasonable annual cost for rate cases and establish a related restricted account to be available for future rate cases.<sup>134</sup>

With regard to restricted accounts, Mr. Woodcock asserted that Newport Water's past practice suggests the need for multiple restricted accounts in order to ensure that Newport Water has sufficient funds available for costs as they arise. Therefore, in addition to the existing restricted accounts for chemicals, IFR and debt, Mr. Woodcock recommended the following: rate case expense, electricity, sewer charges, employee

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<sup>132</sup> Id. at 8-9.

<sup>133</sup> Id. at 10.

<sup>134</sup> Id. at 10-11.

insurance, and City Services. He also suggested that in order to alleviate some of the Division's concerns regarding education and training costs, that those be deposited into a separate restricted account as well.<sup>135</sup>

Addressing the capital expenditure account, Mr. Woodcock argued that the expenses associated with the one-time Vulnerability Assessment should be assigned to the capital account and away from operating expenses. Mr. Woodcock further maintained that for Newport Water's immediate needs, a balance of \$2.5 million at the start of the rate year with annual deposits of \$1.4 million that were allowed in Docket No. 2985 should be sufficient. He indicated that because Newport Water has not yet filed an updated IFR plan, any increases would be premature.<sup>136</sup>

Turning to cost allocation, Mr. Woodcock argued that Newport Water's filing is "full of flaws." He pointed out that Newport Water's studies show a net cost of service of \$8,072,620 while Newport Water has requested rates that would produce \$233,308 in excess of its cost of service. Furthermore, he expressed frustration with Newport Water's non-compliance with the Commission's Order in Docket No. 2985 and blamed that non-compliance for the difficulties in the instant matter. Therefore, Mr. Woodcock maintained that Newport Water has not justified the need for a rate increase or a new rate design except for the retail consumption rates in order to comply with state law.<sup>137</sup>

In his surrebuttal testimony, Mr. McGlenn agreed that there are two connections as alternatives to the 4.0-MG reservoir at the Lawton Valley Plant for emergencies. These connections had been used three times during the prior 14 years. When the Mitchell's Lane emergency connection is used by either party, there is a \$0.20 per

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<sup>135</sup> Id. at 11.

<sup>136</sup> Id.

<sup>137</sup> Id. at 13-16.

thousand gallon surcharge on the cost of water. Mr. McGlinn maintained that PWFD draws all of its water directly from the Lawton Valley Plant through the 4.0-MG underground reservoir. Furthermore, Mr. McGlinn claimed that the Station One Plant is not designed to supply all of PWFD's water supply needs.<sup>138</sup>

Mr. McGlinn noted that "PWFD has always agreed that the two treatment plants and the reservoirs benefit all users, regardless of where the water comes from or where it is treated." However, Mr. McGlinn maintained that the costs associated with the Newport Water distribution and transmission system are not the responsibility of PWFD because PWFD does not benefit from those portions of the water system. PWFD, according to Mr. McGlinn, recognizes that the entire complex system benefits all users and has agreed to share in the costs of the Station One treatment plant, despite receiving no water from that plant. Furthermore, Mr. McGlinn took issue with Ms. Forgue's assertion that without PWFD, Newport Water could shut down the Lawton Valley plant in the winter, noting that the Company was treating more water during winter days than PWFD was using.<sup>139</sup>

The remainder of Mr. McGlinn's testimony addressed the TTHM levels, in which he continued to maintain that the problem is not just PWFD's, but the Navy's and Newport Water's. Therefore, he concluded that Newport Water should address the issue as it affects all of the system's users.<sup>140</sup>

Mr. Nicholson's testimony focused on his technical concerns regarding the CDM Evaluation Report that he believes need to be addressed in an effort to fully address regulatory compliance issues. Mr. Nicholson raised eleven points, fully reproduced as

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<sup>138</sup> PWFD Exhibit 5 (Surrebuttal Testimony of William J. McGlinn, P.E.), pp. 2-4.

<sup>139</sup> Id. at 4-6.

<sup>140</sup> Id. at 6-14.

follows: (1) that there appear to be contradictory statements regarding the available chlorine contact time at the Lawton Valley Plant; (2) that the short-term recommendations for the Lawton Valley Plant need to be clarified; (3) that proposed use of chloramines as a secondary disinfectant appears to use a control system that needs further explanation to fully determine if it is feasible; (4) that the report fails to fully identify the potential impacts of the use of chloramines as a secondary disinfectant (i.e. interference with kidney dialysis and aquatic toxicity); (5) that the report does not fully describe how the switch to chloramines would be implemented or whether pilot testing would be performed; (6) that the report does not consider the impacts to wholesale customers (i.e. PWFD and the Navy) from Newport Water's use of chloramines as a secondary disinfectants; (7) that it is not clear why enhanced coagulation, a standard compliance technology for DBPR, was not fully explored for the Lawton Valley Plant; (8) that it is not clear whether the short-term recommendations proposed for Lawton Valley Plant will allow compliance with State II of the DBPR which will likely be in effect prior to the implementation of long-term recommendations; (9) that the CDM recommendations include the continued reliance upon the Lawton Valley Plant for at least another 11 years, despite their evaluation of the components of this facility indicating that most are at or past the end of their useful lives; (10) that the CDM report also recommends the placement of a replacement facility for the Lawton Valley Plant in the location of the existing 4-million gallon storage tank near the Lawton Valley Plant without consideration of the impacts of the loss of the storage facility; and (11) that the report also does not address the potential for chloramine decay and distribution system

nitrification, especially in the 4-million gallon storage tank that feeds the PWFD wholesale connection.<sup>141</sup>

### **VIII. Navy's Surrebuttal**

The Navy submitted the Surrebuttal Testimony of Earnest Harwig and William Monoco. Mr. Harwig indicated that because the tabulation of peak day volumes does not specify the dates on which the volume was recorded at each treatment plant, the parties are unable to determine if the two plants recorded their respective monthly maximum day volumes on the same day in July 1999. Additionally, Mr. Harwig indicated that the data provided suggests that the system is capable of meeting a higher maximum day demand than the sum of the two plants' July peak days. Therefore, Mr. Harwig maintained that his use of the sum of July peak days for cost allocation purposes does not overstate the system peak day demands. He concedes that averaging the peak day volume of each year over a three-year period is an improvement in Newport Water's rebuttal, but still understates the degree to which the system can meet peak day demands.<sup>142</sup>

Mr. Harwig then argued that Newport Water provided no rationale for classifying all treatment costs exclusively to the base function with the exception of pumping costs, which are incorporated into transmission costs, classified to both the Base and Max Day functions. Likewise, he argued that supply costs should not be classified exclusively to the base function. He maintained that other water utilities with multiple treatment facilities classify treatment costs to both the Base and Maximum Day functions.<sup>143</sup>

With regard to consumption data, Mr. Harwig argued that Newport Water's use of five years of class consumption data masks trends in usage. For example, he noted that

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<sup>141</sup> PWFD Exhibit6, (Pre-filed Surrebuttal Testimony of C&E Engineering, Inc.), pp. 2-3.

<sup>142</sup> Navy Exhibit 3 (Pre-filed Surrebuttal Testimony of Earnest Harwig), p. 2-3.

<sup>143</sup> Id. at 3-4.

between FY 1999 and FY 2003, residential consumption increased by approximately 23% while commercial consumption decreased by 13% and the Navy's consumption decreased by 28%. He argued that use of the five year data has the effect of under-allocating costs to the residential class while over-allocating costs to the commercial and Navy classes. Additionally, he indicated that the commercial and Navy usages are not as sensitive to weather as residential use.<sup>144</sup>

With regard to the peaking ratios, Mr. Harwig indicated that Mr. Harold Smith conceded that his peaking factors cast some doubt on the validity of the rates calculated for each class and maintained that it would be appropriate to substitute peaking ratio that would be more commonly seen for each class type. Mr. Harwig noted that the ratio he utilized for the Navy's max day usage is higher than Mr. Smith's and has the effect of assigning more max day costs to the Navy. With regard to the max day ratio, Mr. Harwig notes that Mr. Smith followed the procedures outlined by the AWWA Manual, but maintained that the numbers underlying the ratio are suspect. Therefore, Mr. Harwig argued that Newport Water's proposed rate of \$2.11 per thousand gallons for the Navy is still excessive.<sup>145</sup> Mr. Harwig then discussed his cost study that indicated that Newport Water's allocation would undercollect from the residential, government and PWFD classes while overcollecting from commercial and Navy classes. He suggested a 7.27% increase in residential rates, a 6.18% decrease in commercial rates, a 2.65% decrease in commercial rates, a 6.64% decrease to the Navy and a 10.86% increase to PWFD.<sup>146</sup>

Mr. Monaco indicated that he believes the City of Newport shows an interest in the TTHM problem facing PWFD and the Navy, but has not investigated the issue nor

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<sup>144</sup> Id. at 4.

<sup>145</sup> Id. at 5-6.

<sup>146</sup> Id. at 6-7, Schedules EH-1, EH-2.

taken any responsibility for it. He argued that the PWFD non-compliance with EPA regulations in 2002 was a result of the City of Newport not taking a proactive approach to prepare for the implementation of the new regulations. He indicated that with regard to the Final Compliance Report, neither the Navy nor PWFD were included and that the Navy has not assessed the effects of adding ammonia to the treatment process. He indicated that while the Navy adds chlorine to the water in its system which will raise TTHM levels, but indicated that when the water enters the Navy system at levels above certain limits makes compliance impossible for the Navy, even without adding chlorine to its system.

Finally, in response to Newport Water's contention that in the future each of the water systems may have to treat their own water to address their specific conditions, Mr. Monaco agreed that all water systems have to have capabilities to meet regulations within that system, but argued that "if it is possible to fix a problem at the source water versus at several locations within the distribution system(s) it is common sense that fixing at the source water should be the solution."<sup>147</sup>

## **IX. Division's Surrebuttal**

On May 14, 2004, the Division submitted the Surrebuttal Testimony of Thomas S. Catlin. At the outset, Mr. Catlin noted that in its Rebuttal Testimony, Newport Water has proposed to increase rates designed to generate \$233,308 more than its total stated rate year cost of service.<sup>148</sup>

Mr. Catlin addressed areas in which he either eliminated his original adjustments or where Newport Water accepted the Division's adjustments. Specifically, Mr. Catlin

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<sup>147</sup> Navy Exhibit 4 (Surrebuttal Testimony of William Monaco), pp. 2-3.

<sup>148</sup> Division Exhibit 2 (Surrebuttal Testimony of Thomas Catlin), pp. 2-3.

indicated that the Division agreed that employee education is important and has accepted Newport Water's request to allow \$12,000 for Conferences and Training costs, but recommended establishment of a restricted account for these funds.<sup>149</sup>

Mr. Catlin noted that in his direct, he proposed to adjust the budgeted level of employee benefits expense reflected in Newport Water's claimed cost of service to reflect the annualized level of costs based on actual experience for the first seven months of the test year. This resulted in a reduction in employee benefits costs of \$96,178. Mr. Catlin pointed out that in her rebuttal, Ms. Forgue presented an analysis that indicates that rate year benefits costs will be \$48,903 less than budgeted level included in the Newport Water's claimed cost of service. Ms. Forgue argued, however, that this reduction should not be recognized because benefits costs will increase in FY 2005. Mr. Catlin stated that he accepted Newport Water's analysis of rate year benefits costs and has modified his adjustment to recognize a reduction of \$48,903. Mr. Catlin rejected the argument that no adjustment should be made because the potential increases to which Ms. Forgue has referred are post rate year. Including these costs would result in a mismatch with other components of the cost of service and ignores that these cost increases may be offset by other changes. Second, the increases are not known and measurable. Finally, an operating reserve allowance of 1.5 percent of total operating expenses is included in the cost of service to allow for changes and variances in costs such as these.<sup>150</sup>

According to Mr. Catlin, a comparison of Newport Water's budgeted electricity costs for FY 2004 to those incurred in FY 2003 reveals that actual costs have been well below Newport Water's budgeted rate year claim of \$379,000. For FY 2003, actual

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<sup>149</sup> Id. at 4-5.

<sup>150</sup> Id. at 6-7.

electricity costs totaled \$318,467 and for the 12 months ended January 2004, total electricity costs were \$305,534. Therefore, Mr. Catlin originally proposed an adjustment to electricity expense to reflect the average annual costs based on the actual costs for the 24 months ended January 2004. Mr. Catlin noted that in his rebuttal, Mr. Harold Smith claimed that no adjustment is appropriate because annualizing electricity costs for the first nine months of FY 2004 results in an annual expense of \$371,000. He argued that the \$8,000 difference between this figure and the Company's claim should be recognized as a contingency. According to Mr. Catlin, annual electricity costs cannot be determined based on 9 months of data because electricity usage is seasonal. Moreover, electricity costs can vary significantly from year to year based on rainfall, reservoir water levels and other conditions. Mr. Catlin argued that the appropriate method of determining annual electricity costs is to utilize a normalized level of expense based on actual usage for a representative historical period. In his surrebuttal, Mr. Catlin utilized the 24 months ended March 31, 2004 to determine the normalized level of electricity costs. This results in an adjustment to Newport Water's claimed expense of \$58,646.<sup>151</sup>

According to Mr. Catlin, contrary to Newport Water's claim, a review of Newport Water Schedule 2 accompanying Mr. Smith's testimony reveals that Newport Water's revised chemical expense claim is not based on actual FY 2004 chemical costs. Rather, it is based on the maximum quantity of each chemical utilized at each plant in any year since FY 1997. Mr. Catlin argued that this procedure is inappropriate because it ignores the fact that during the time period since FY 1997, both water treatment plants have been shut down for extended periods in some years. As a result, the chemical quantities used at the other plant would be abnormally high during that time period. In addition, changes

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<sup>151</sup> Id. at 8-9.

in the operations at the plants that affect the mix of chemicals used are also ignored by Newport Water's method.<sup>152</sup>

Mr. Catlin maintains that use of more recent history is appropriate. He proposes that the allowance for chemical costs continue to be based on the maximum usage quantities and current prices consistent with its original recommendation. He updated its analysis to reflect the quantities used for the more recent 12 months ended April 2004. Mr. Catlin also updated his adjustment to reflect the difference between his recommendation and the revised chemical expense claimed by Newport Water in its rebuttal filing. This adjustment results in a reduction in the rate year allowance for chemical expense of \$30,400. Mr. Catlin notes that in addition to the amounts shown on Schedule TSC-9, he accepted Newport Water's \$22,000 allowance for copper sulfate costs for the Island source of supply reservoirs. This brings the total chemical costs to be contributed to the restricted fund to \$352,470. This represents an increase of \$60,284 over the current level of chemicals funding of \$292,186 approved in Docket No. 2985.<sup>153</sup>

Mr. Catlin noted that in its rebuttal filing, Newport Water continued to include the \$20,000 which it estimated as the cost of the additional chemicals that would be required at Lawton Valley as the result of the Compliance Evaluation Study. Although Mr. Catlin included this cost on updated Schedule TSC-9, he maintained that it is not clear from the completed Study whether those additional chemical costs will be incurred in the near future. He asserted that Newport Water should indicate whether this cost estimate is still applicable, and, if not, to identify the appropriate costs.<sup>154</sup>

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<sup>152</sup> Id. at 9-10.

<sup>153</sup> Id. at 10-11.

<sup>154</sup> Id. at 11.

According to Mr. Catlin, Newport Water should not have used FY 1999 in its average sales volumes because it causes PWFD's average consumption to be understated (PWFD did not start buying all of its water supplies from Newport Water until FY 2000). Second, Newport Water used the wrong volumes for Navy and PWFD when running its calculations. Third, Newport Water's calculations of retail revenues at present rates are overstated. Therefore, Mr. Catlin recalculated the revenues in the following manner.<sup>155</sup>

He noted that the average volume sold to Portsmouth for FY 2000 through FY 2003 was 446,907 thousand gallons. Applying Newport's system-wide compound growth rate to this average produces rate year volumes of 449,945 thousand gallons. This represents an increase of 30,973 thousand gallons over the historical average volumes used by Newport Water to calculate revenue at present rates. When multiplied by the current wholesale rate, this results in an increase in revenue at present rates of \$51,416.<sup>156</sup>

For the Navy, comparing Newport's projected rate year volume to the historical volume used to calculate revenues at present rates results in an upward adjustment to sales volumes of 2,792 thousand gallons. When multiplied by the current rate applicable to the Navy, this produces additional revenue of \$5,835.<sup>157</sup>

For retail sales revenue, Mr. Catlin calculated the ratio of Newport's projected retail sales volume for the rate year to the higher volume which Newport used to calculate revenue at present rates under the existing block rate structure. He then multiplied this rate by Newport's calculated revenues at present rates to arrive at the level of revenue consistent with projected rate year sales volumes. This results in a reduction

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<sup>155</sup> Id. at 11-12.

<sup>156</sup> Id. at 13.

<sup>157</sup> Id.

in retail sales revenue of \$56,503. Overall, the net effect of these three corrections is to increase revenue at present rates by \$748.<sup>158</sup>

With regard to the cost allocation methodology, Mr. Catlin indicated that he agreed with the changes that had been made but was concerned with the calculations relative to the maximum day and maximum hour demand. He recommended that further attention be given to the development of system-wide and class peak demands for future cases.<sup>159</sup>

Addressing rate design, Mr. Catlin noted that given a lack of accurate class peaking factors, Newport Water proposed one commodity rate for each of its retail customers. Mr. Catlin recommended that, with the exception of the commodity rate, all existing rates remain in effect. He stated that, “based on corrected rate year retail consumption revenues at present rates of \$4,636,925 and sales of 1,370,476 thousand gallons, the uniform retail commodity rate would be \$3.38 per thousand gallons.”<sup>160</sup>

## **X. Settlement**

On May 27, 2004, the parties filed a proposed Settlement Agreement (“Settlement”) with the Commission. The Settlement allowed no revenue increase, but eliminated the declining block rates for retail customers. Under the Settlement, the total cost of service would be \$7,832,300. Retail customers will pay \$3.38 per thousand gallons, with an average residential customer, billed on a tertiary basis, experiencing an

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<sup>158</sup> Id.

<sup>159</sup> Id. at 14.

<sup>160</sup> Id. at 15.

8.06% decrease, from \$234.75 to \$215.82 annually. PWFD and the Navy will experience no rate increase.<sup>161</sup>

The parties agreed that Newport Water's current rates provide more than sufficient revenues for the settled rate year expenses. However, rather than reducing Newport Water's rates, the parties agreed that revenues in excess of the settled operating expense and other restricted account requirements should be added to the restricted capital amount. The result is a 45% increase in Newport Water's O&M expenses, from \$3,516,979 to \$5,104,396 and a 36% decrease in contributions to the Debt Service and Capital Outlay accounts, from \$4,103,028 to \$2,612,155.<sup>162</sup> Additionally the Settlement called for the Commission to establish the reduced contributions at the beginning of the rate year, which was July 1, 2003-June 30, 2004.<sup>163</sup>

The Settlement provided that for the period FYE 2001 through FYE 2003, Newport Water should be allowed to repay the City of Newport for loans limited to the \$2.5 million request in the initial filing. The parties agreed that repayment will occur over five years and that the funds will be drawn from the Debt Service Account. The parties further agreed that \$250,000 from rates will be deposited into the Debt Service Account each year for purposes of repayment. This will provide \$1.25 million over five years. The remaining \$1.25 million will be taken from the existing balance in the restricted debt service account.<sup>164</sup>

The Settlement provided that in the event Newport Water borrows money from the City of Newport any such funds borrowed during FYE 2005 will not be recovered

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<sup>161</sup> Joint Exhibit 1 (Settlement Agreement), pp. 3-4. A copy of the Settlement is attached hereto as Appendix A; Commission Exhibit 1 (Division's Response to PUC 1).

<sup>162</sup> Joint Exhibit 1, p. 3.

<sup>163</sup> *Id.* at 4.

<sup>164</sup> *Id.* at 4-5.

through rates. After FYE 2005, the parties have agreed that any loan from the City shall be reflected by appropriate documentation and Newport Water shall have the duty to monitor and track its costs and properly account for how the loan proceeds are applied.<sup>165</sup>

The Settlement established two new private fire service charges for 2-inch and less than 2-inch connections. There is no revenue impact in the current filing as a result of this change. The Settlement provided that Newport Water shall report on Conference and Training costs in its semi-annual reports, but that a separate restricted account will not be set up. The parties have agreed that Navy and PWFD will receive all reports made to the Commission. Under the Settlement, the following accounts will be restricted immediately: Debt Service, Capital, Chemicals and Electricity.<sup>166</sup>

The Settlement provided funding for rate case expenses of \$181,624 amortized over two years. The parties agreed that if Newport Water does not file a further rate case before July 1, 2005, the money included in the annual revenue requirement for rate case expense will be placed into a restricted account after July 1, 2005.<sup>167</sup>

The Settlement noted that Newport's cost allocation study in this docket does not charge PWFD with transmission, distribution or peak costs associated with supply or treatment. However, if in the future, Newport Water seeks to charge PWFD for these items, the parties agreed that Newport Water shall be required to submit a demand study with any cost allocation study. As part of the Settlement, Newport Water, PWFD and the Navy agree to participate in a joint study that will examine the most efficient way to address TTHM issues. According to the Settlement, the EPA keeps reducing the maximum allowable levels through regulations. The parties agreed that study will be

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<sup>165</sup> Id. at 5.

<sup>166</sup> Id. at 6.

<sup>167</sup> Id.

paid for from the Capital Account and will be capped at \$125,000. The stated goal is to have the study completed within twelve months. The parties agreed that Newport Water may proceed with the short-term improvements suggested in the 2004 Compliance Evaluation Report. Newport Water agreed to notify PWFD and the Navy of the occurrence of certain events that might affect water quality.<sup>168</sup>

## **XI. Hearing**

Following notice, public hearings for the purposes of taking public comment were conducted on March 4, 2004 at Newport City Hall. No members of the public appeared. Public hearings were also conducted on June 2, 2004 for the purpose of reviewing the final Settlement between the parties at the Commission's Offices, 89 Jefferson Boulevard, Warwick, Rhode Island. The following appearances were entered:

The following appearances were entered:

FOR NEWPORT WATER: Joseph Keough, Jr., Esq.

FOR NAVY: Audrey Van Dyke, Esq.

FOR PWFD: Gerald J. Petros, Esq.

FOR DIVISION: Leo Wold, Esq.  
Special Assistant Attorney General

FOR COMMISSION: Cynthia G. Wilson, Esq.  
Senior Legal Counsel

Newport Water presented Julia Forgue, Laura Sitrin, the Newport City Finance Director, Karen Garcia, Newport Water's Financial Analyst, Harold Smith, and James Smith in support of the Settlement. PWFD presented Christopher Woodcock and William McGlenn. The Navy did not present any witnesses. The Division presented Thomas Catlin.

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<sup>168</sup> Id. at 7-9.

In response to a question regarding a perceived inconsistency in the employment level of Newport Water, Ms. Sitrin explained that Newport Water has 48 employees, including both full and part-time. The actual full-time equivalents are 45.7.<sup>169</sup>

Ms. Forgue explained that 60% of her salary is allocated from the City of Newport's General Fund and the remaining 40% from the Water Fund. She explained that Newport Water and the City of Newport have been through a transition period since March 2001 when she was hired as the Director of Public Works. She indicated that there was a period of time when there was no permanent finance director or city manager, making financial reporting a challenge. However, those positions have been filled. Additionally, the City hired a Deputy Director of Public Works to alleviate some of Ms. Forgue's duties, allowing her to focus more on the Water Department. Finally, in 2003, the City of Newport added Ms. Garcia's position to the Water Department. Therefore, Ms. Forgue stated that she believed Newport Water has the management in place at the City level and the Water Department level to be able to move forward in a positive direction, including complying with Commission reporting requirements.<sup>170</sup>

Mr. Catlin summarized the Settlement, noting in particular the provision that would allow the change to the funding of the restricted accounts to be made effective at the beginning of FY 2004, the rate year used in this case. He noted that the amounts currently being deposited into those accounts in accordance with the Commission's Order in Docket No. 2985 differ from the requirements in 2004 and *because the revenue*

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<sup>169</sup> *Id.* at 156-157.

<sup>170</sup> Tr. 6/2/04, pp. 21-24.

*requirement is remaining unchanged*, it is reasonable to fund the accounts at the currently required levels retroactively to the beginning of the rate year.<sup>171</sup>

Addressing the repayment to the City, Mr. Catlin explained that the \$2.5 million is a fixed amount and that Newport Water will be precluded from requesting additional funds in the future.<sup>172</sup> The witnesses agreed that they could not accurately calculate upon what costs the funds were expended.<sup>173</sup> Mr. Catlin indicated that at least two factors led to the loans. The first is that O&M expenses have grown since the last rate case and the second is that certain capital outlays were treated as O&M expenses while the funds were deposited into the restricted capital outlay account.<sup>174</sup> Mr. Smith indicated that for FY 2004, Newport Water will repay \$908,518. According to Ms. Sitrin, the remaining payments would be made on June 30<sup>th</sup> of each year.<sup>175</sup>

Mr. Catlin conceded that the accounting can not be accurately completed, but maintained that he has satisfied himself that Newport Water has put the necessary procedures in place to avoid another occurrence such as this from occurring again.<sup>176</sup> These procedures include the creation of a separate checking account for the Water Department, new computer software, and the new fiscal analyst position.<sup>177</sup> Mr. Catlin, Mr. Woodcock and Mr. Harold Smith all agreed that if Newport Water had been in compliance with the Commission's reporting requirements, the financial constraints

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<sup>171</sup> Id. at 26-31 (emphasis added).

<sup>172</sup> Id. at 31-32. Newport Water agreed to advise the Commission immediately if a loan is required from the City of Newport to cover costs related to a catastrophic type event. Id. at 66-67, 71.

<sup>173</sup> Id. at 68,100,

<sup>174</sup> Id. at 32-36.

<sup>175</sup> Id. at 75, 77. Ms. Sitrin noted that, in the event Newport Water does not have funds available to pay all debt, including the City of Newport, the City's loan would be the last priority. However, she maintained that Newport Water would certainly file for increased rates with the Commission. Id. at 79.

<sup>176</sup> Id. at 32-36.

<sup>177</sup> Id. at 39, 45-47.

would have been recognized sooner.<sup>178</sup> Each of Newport Water’s witnesses testified that they recognize the importance of complying with reporting requirements. Witnesses for each party also indicated that the Commission can impose reasonable reporting requirements on the utility.<sup>179</sup>

On behalf of Newport Water, Ms. Forgue agreed to provide the Commission with correspondence between the Water Department and the Department of Health regarding the IFR plan. She agreed to provide, on a quarterly basis, a monthly accounting of her time allocated between the water department and the public works department, complete with a description of the activities performed. She agreed to provide a monthly cash reconciliation and monthly reconciliation of the operating reserve. Additionally, she agreed to work with Commission Staff to develop the appropriate format for each report.<sup>180</sup>

Mr. Catlin and Mr. Woodcock both agreed that if the Commission imposed reasonable reporting requirements and Newport Water does not comply, the Commission could deny or delay repayment to the City.<sup>181</sup> Mr. James Smith argued that denial of repayment would have to go to the court to determine whether the health, safety and welfare of the taxpayers of the City of Newport would be endangered by the failure to repay.<sup>182</sup> He also argued that denial of repayment to the City would be like denying Fleet Bank repayment of a loan.<sup>183</sup> He did not dispute that, unlike a lender such as Fleet Bank, the City of Newport owns the system to which it loaned money from the General Fund.<sup>184</sup>

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<sup>178</sup> Id. at 101-103.

<sup>179</sup> Id. at 104, 135-36.

<sup>180</sup> Id. at 138-140.

<sup>181</sup> Id. at 140-141.

<sup>182</sup> Id. at 141-142.

<sup>183</sup> Id. at 145.

<sup>184</sup> Id.

Mr. James Smith maintained that there is no reason that Newport Water should not comply with the reporting requirements previously discussed, but conceded that in the past Newport Water has not complied and that the Commission needs some assurance that it will.<sup>185</sup> Furthermore, in response to the question that, in light of the fact that none of the other parties have control over the management of the Newport Water Division other than Newport Water and the City of Newport, what other method exists for the Commission to assure itself that Newport Water will comply, Mr. James Smith responded that the reporting requirements are enough because “there’s nothing unusual about these reports, they should be done, should have been done always and so there is no reason these reports should not be submitted.”<sup>186</sup>

With regard to Newport Water’s compliance, all parties agreed that Newport Water should be given a chance to show compliance, or if there was non-compliance, upon what good cause it was based. The parties agreed that it would be reasonable to require Newport Water to file on May 30<sup>th</sup> of each year, a request for authorization to release the funds to the City of Newport for repayment showing compliance with the Commission’s Order or if there was non-compliance, there was good cause for non-compliance which should not preclude Newport Water from repaying the City of Newport. The Commission would issue a decision within 30 days of the filing.<sup>187</sup>

## **XII. Commission Findings – June 22, 2004 Open Meeting**

At an Open Meeting on June 22, 2004, the Commission approved the Settlement with modifications which were conceded to by the parties at the June 2, 2004 hearing. At

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<sup>185</sup> Id. at 143.

<sup>186</sup> Id. at 146.

<sup>187</sup> Id. at 142-145. Newport Water also agreed to advise the Commission in its quarterly reports regarding the status of the billing and collection issue with PWFD. Id. at 169.

the outset, the Commission notes that the past year and a half has been a challenge for Newport Water and its relations with the Commission. Once again, Newport Water did not take the Commission's Order seriously, causing the parties to exchange voluminous numbers of discovery requests. Once again, Newport Water was unable to appropriately file a cost study and track its expenses and revenues. However, the Commission believes that it has been abundantly clear about the necessity to comply with Commission Orders in the instant case. In fact, there is real money at stake for the City of Newport and its Water Division in the event noncompliance continues. Newport Water is at a crossroad. Its new management has expressed the desire to prove to the Commission that it is serious about following through and maintaining a financially sound utility. The Commission has confidence that Newport Water can meet each and every requirement that is being imposed in this case if it is serious in its claims. The Commission is hopeful that the requirements imposed in this case will be of assistance to the management of the Water Division and to the City of Newport in managing the system. The Commission believes that the accumulation of data will also be of use to Newport Water and the other parties when the next rate filing is made. The relationship between the regulator and the utility does not need to be adversarial and it would behoove every utility to maintain open lines of communication with the Commission in order to avoid the harsher than normal adversarial nature of the instant proceeding.

The Commission will allow repayment to the City for FY 2004 loans in the amount of \$911,085. The first \$500,000 payment of the remaining \$2.5 million shall be deferred until December 2004. On November 15, 2004, Newport Water shall file a report with the Commission showing that it has complied with each of the reporting

requirements of the Commission. If the Commission finds that Newport Water is, indeed, in compliance, it will allow repayment of the first \$500,000. If Newport Water is found not to be in compliance, the Commission reserves the right to disallow all or a portion of the repayment. A review of Newport Water's responses to Commission record request 4 and post-hearing data response 2-1 provide reasonably sufficient support for allowing repayment for FY 2004.

No later than July 22, 2004, Newport Water shall set up a new separate interest bearing restricted account entitled "Repayment to City" into which the Water Department shall deposit \$250,000 annually from rates. At the time the account is set up, the Company shall transfer \$1.5 million from the Debt Service Account to the Repayment to City Account. At the hearing, all parties agreed that it would be reasonable to set up a new restricted account captioned "Repayment to City." The Division's response to Commission Data Request 6 shows what would happen if the \$1.0 million that will be paid back to the City in FY 2005 – FY 2008 were transferred from the Debt Service Account, where it is presently accounted for, at the time the Account is set up. Mr. Catlin did not express concern with the negative balance of the Debt Service Account in 2007 based on expectations that Newport Water will be back for a rate case before then and that the SRF loans will change the debt service needs before then.

Newport Water shall comply with the following reporting requirements: (1) Newport Water shall file with the Commission and Division a copy of its IFR Plan when it files with the Department of Health and shall advise the Commission and Division of any action the Department of Health takes regarding that IFR Plan. In the event Newport Water files for an extension, it shall provide the Commission and Division with all

correspondence related thereto. (2) Newport Water shall provide a reconciliation of each restricted account on a quarterly basis, commencing on October 31, 2004 for the period ending September 30, 2004. (3) Newport Water shall provide a balance sheet, income statement and cash flow statement on a quarterly basis, commencing on October 31, 2004 for the period ending September 30, 2004. (4) Newport Water shall provide a monthly accounting of Ms. Forgue's time allocated between the Water Department and the Public Works Department, complete with a description of the activities performed on a quarterly basis, commencing on October 31, 2004 for the quarter ending September 30, 2004. (5) Newport Water shall provide updates on its Conference and Training Costs in its quarterly reports. (6) On a monthly basis, Newport Water shall provide a monthly cash reconciliation to include cash inflow and cash outflows, commencing on August 15, 2004 for the period ending July 31, 2004. Outflows should be categorized in the same fashion as the expense categories included in TSC-1. Inflows and outflows should be compared to budget with an explanation of any deviation from the budget by more than 10%, on a quarterly basis commencing on October 31, 2004 for the period ending September 30, 2004. (7) On a monthly basis, Newport Water shall provide a monthly reconciliation of the operating reserve including the beginning balance, deposits, withdrawals, detailed description of purpose of withdrawals, and ending balance on a quarterly basis, commencing on October 31, 2004 for the period ending September 30, 2004. No later than July 22, 2004, Newport Water shall meet with Commission Staff and the parties to develop the appropriate format for each report.

On May 30<sup>th</sup> each year, Newport Water shall file a report showing that it has complied with each reporting requirement of the Commission during that fiscal year and

request approval to repay the City. The Commission will review the filing, allow a short time for any input from the parties to this docket and render a decision on or before June 30<sup>th</sup> as to whether the Newport Water Department will be authorized to repay the entire amount to the City. In the event Newport Water does not comply, the Commission reserves the right to disallow all or a portion of repayment. The parties have agreed to repayment to the City over the course of five years, albeit somewhat reluctantly. The loans from the City of Newport would have been recognized earlier if Newport Water had been in compliance with prior Commission Orders. Non-compliance with prior Commission Orders contributed to the necessity for the City of Newport to cover the Water Department's expenses. The Commission could deny repayment entirely. However, in order to allow the current management the opportunity to prove that the Company has finally heard the Commission and has every intention of complying, rather than denying repayment altogether, the Commission will allow repayment if Newport Water complies with each and every reporting requirement in a timely manner.

At the hearing, each of the parties agreed that the Commission could condition repayment to the City on Newport Water Department's compliance with reasonable reporting requirements. The parties agreed that the May 30<sup>th</sup> filing requirement would be a reasonable manner in which to implement conditional repayment. The City Manager expressed concern with this line of questioning and thought that it would be unfair not to allow repayment and indicated such a decision would be appealed. He thought that the Commission should focus entirely on the Water Department and not the City's responsibility. However, he did not have an alternative suggestion of how the Commission could assure itself there would be compliance *and argued that there should*

*be no reason that the Water Department cannot comply.* Therefore, he should not have any reason to fear that the City will not be repaid. Furthermore, such conditions will send a signal to the City and to the Water Department that Commission Orders are to be taken seriously and will ensure the Water Department has adequate support from the City to comply.

Newport Water shall continue funding its restricted accounts at the dollar amounts allowed in the Settlement rather than as a percentage of collections. Newport Water shall consult with Commission Staff and the parties to develop the appropriate funding mechanism. Further, if Newport Water finds that it is not collecting sufficient funds to fund the accounts, it shall advise the Commission immediately. This method would hold the required funding amount constant at the levels agreed to in the settlement. During future reviews of the restricted funding, it will be easy to determine if the accounts are being funded properly as the funding amounts should not fluctuate. Conversely, using a percentage of collections method, the appropriate funding levels will fluctuate and be more difficult to verify. Given Newport Water's recent struggles in tracking cash and expenses, a level, easy to verify funding amount is the best choice. Additionally, Newport Water is essentially funding restricted accounts in this manner currently and this will not be a major change for the Department. Also, if Newport Water were to suffer cash flow problems as a result of lower than expected sales, Newport Water could petition the Commission for relief from funding requirements.

Given the fact that the Commission has implemented new reporting requirements for Newport Water, it will not be required to file a semi-annual report in June 2005. For clarification, reports regarding Capital Improvement Projects are due semi-annually, with

the report for the period ending December 2004 due in January 2005 and the report for the period ending June 2005 due in July 2005, et cetera.

In its next rate filing, the City of Newport, Utilities Department, Water Division shall utilize Schedules in a format substantially similar to those filed by Pawtucket Water Supply Board's rate consultant in Docket No. 3497. It appears some of the cause of voluminous discovery requests was the format of the schedules. This provision should alleviate the need for some of the discovery.

**XIII. August 19, 2004 Open Meeting**

At its August 19, 2004 open meeting, the Commission approved the format for each of the reports that Newport Water shall file in compliance with this Order.<sup>188</sup>

**XIV. September 2, 2004 Open Meeting**

At its September 2, 2004 open meeting, the Commission approved Newport Water's Revised Tariff Filing made on August 16, 2004 as revised on August 20, 2004 to implement the rates approved under this Order.<sup>189</sup> The Commission noted that, to date, Newport Water has been responsive to the Commission's directives in working with Commission Staff and providing the information required.

According, it is hereby

(17992) ORDERED

1. The City of Newport, Utilities Department, Water Division's Application for a General Rate Increase, filed on November 28, 2003, is hereby denied and dismissed.

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<sup>188</sup> A copy of the forms is attached hereto as Appendix B.

<sup>189</sup> Newport Water's tariff filing of August 16, 2004 contained the incorrect charge for public fire protection. The revised filing was made on August 20, 2004.

2. The Settlement Agreement filed by the City of Newport, Utilities Department, Water Division, the Division of Public Utilities and Carriers, Portsmouth Water and Fire District and the United States Navy is hereby approved. The rates contained in the Settlement Agreement are approved for consumption on and after June 28, 2004. The total cost of service is \$7,832,300
3. City of Newport, Utilities Department, Water Division shall restrict \$3,520,979 annually, in the following manner: Debt Service - \$1,521,815; Capital - \$1,090,340; Chemicals - \$330,470; Electricity - \$328,354 and Repayment to City of Newport – initial deposit of \$1,500,000 transferred from debt service plus ongoing annual funding of \$250,000.
4. City of Newport, Utilities Department, Water Division shall fund its Restricted Accounts at the dollar amounts allowed in the Settlement Agreement and not on a percentage of collections basis.
5. City of Newport, Utilities Department, Water Division shall comply with the following periodic reporting requirements:
  - (a) City of Newport, Utilities Department, Water Division shall file with the Commission and Division a copy of its IFR Plan when it files with the Department of Health and shall advise the Commission and Division of any action the Department of Health takes regarding that IFR Plan. In the event City of Newport, Utilities Department, Water Division files for an extension, it shall provide the Commission and Division with all correspondence related thereto.

- (b) City of Newport, Utilities Department, Water Division shall provide a reconciliation of each restricted account on a quarterly basis, commencing on October 31, 2004 for the period ending September 30, 2004.
- (c) City of Newport, Utilities Department, Water Division shall provide a balance sheet, income statement and cash flow statement on a quarterly basis, commencing on October 31, 2004 for the period ending September 30, 2004.
- (d) City of Newport, Utilities Department, Water Division shall provide a monthly accounting of Ms. Forgue's time allocated between the Water Department and the Public Works Department, complete with a description of the activities with the filing to be made on a quarterly basis, commencing on October 31, 2004 for the period ending September 30, 2004.
- (e) Newport shall provide updates on its Conference and Training Costs in its quarterly reports.
- (f) On a monthly basis, City of Newport, Utilities Department, Water Division shall provide a monthly cash reconciliation to include cash inflow and cash outflows, commencing on August 15, 2004 for the period ending July 31, 2004. Outflows should be categorized in the same fashion as the expense categories included in TSC-1. Inflows and outflows should be compared to budget with an explanation of any deviation from the budget by more than 10%, on a quarterly basis

commencing on October 31, 2004 for the period ending September 30, 2004.

(g) On a monthly basis, City of Newport, Utilities Department, Water Division shall provide a monthly reconciliation of the operating reserve including the beginning balance, deposits, withdrawals, detailed description of purpose of withdrawals, and ending balance on a quarterly basis, commencing on October 31, 2004 for the period ending September 30, 2004.

6. No later than July 22, 2004, City of Newport, Utilities Department, Water Division shall meet with Commission Staff and the parties to develop the appropriate format for each report.
7. City of Newport, Utilities Department, Water Division shall, on November 15, 2004, file a report with the Commission showing that it has complied with each of the reporting requirements of the Commission prior to making the first payment in the amount of \$500,000 to the City of Newport against the debt accrued to the City of Newport during the period prior to FY 2004. In the event the Commission finds City of Newport, Utilities Department in non-compliance with the Commission's Order, the Commission reserves the right to deny repayment of any or all of the installment.
8. City of Newport, Utilities Department, Water Division shall, on May 30<sup>th</sup> of each year, file a report with the Commission showing that it has complied with each of the reporting requirements of the Commission prior

to making that year's payment in the amount of \$500,000 to the City of Newport against the debt accrued to the City of Newport during the period prior to FY 2004. In the event the Commission finds City of Newport, Utilities Department in non-compliance with the Commission's Order, the Commission reserves the right to deny repayment of any or all of the installment.

9. City of Newport, Utilities Department, Water Division shall provide the parties to the docket with a copy of all reports made to the Commission in compliance with this Order.
10. The City of Newport, Utilities Department, Water Division's periodic reports shall be in the form approved by the Commission on August 19, 2004.
11. City of Newport, Utilities Department, Water Division will not be required to file a semi-annual report in June in 2005.
12. City of Newport, Utilities Department, Water Division shall file reports regarding Capital Improvement Projects on a semi-annual basis, with the report for the period ending December 2004 due in January 2005.
13. In its next rate filing, the City of Newport, Utilities Department, Water Division shall utilize Schedules in a format substantially similar to those filed by Pawtucket Water Supply Board's rate consultant in Docket No. 3497.
14. City of Newport, Utilities Department, Water Division's Tariffs, filed on August 16, 2004 as revised on August 20, 2004, are hereby approved.

15. City of Newport, Utilities Department, Water Division shall comply with all other findings and instructions as contained in this Report and Order.

EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO OPEN MEETING DECISIONS ON JUNE 22, 2004, AUGUST 19, 2004 AND SEPTEMBER 2, 2004. WRITTEN ORDER ISSUED SEPTEMBER 24, 2004.

PUBLIC UTILITIES COMMISSION

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\*Elia Germani, Chairman

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Kate F. Racine, Commissioner

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Robert B. Holbrook, Commissioner

\* Chairman Germani did not participate in the June 22, 2004 Open Meeting, but concurs with the decision.

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

**IN RE: CITY OF NEWPORT, UTILITIES DEPARTMENT, WATER DIVISION**

**DOCKET NO.: 3578**

**SETTLEMENT AGREEMENT**

The City of Newport, Utilities Department, Water Division (hereinafter “Newport Water” or “Newport”), the Division of Public Utilities and Carriers (hereinafter “Division”), the Portsmouth Water and Fire District (hereinafter “Portsmouth”), and the United States Department of the Navy (hereinafter “Navy”) have reached an agreement on Newport Water’s rate application filed on November 28, 2003 and jointly request the approval of this Settlement Agreement by the State of Rhode Island Public Utilities Commission (hereinafter the “Commission”).

**I. RECITALS**

1. On November 28, 2003, Newport Water filed a rate application pursuant to R.I.G.L § 39-3-11 and Part II of the Commission’s Rules of Practice and Procedure.
2. The application sought to collect additional operating revenue in the amount of \$606,662 to support total operating revenue requirements of \$8,173,251. The impact of this request would have resulted in an 8.01 % increase in normalized test year revenues for the rate year commencing July 1, 2003 and ending on June 30, 2004.

3. In addition, Newport Water filed a cost allocation study that proposed to change its current declining block rate structure to a flat rate commodity charge based on consumption.
4. In support of its application, Newport filed the direct testimony and schedules of Julia A. Forgue, P.E., Newport's Director of Public Works, Harold J. Smith of Raftelis Financial Consulting, and Newport's City Manager, James C. Smith. Ms. Forgue and Mr. Harold Smith also filed rebuttal testimony.
5. On January 13, 2004, Portsmouth filed a Motion to Intervene in this Docket, and the Navy filed a Motion to Intervene on February 9, 2004. Newport did not object to either motion.
6. Portsmouth submitted direct and surrebuttal testimony from William J. McGlenn, P.E. General Manager and Chief Engineer for Portsmouth, Christopher P.N. Woodcock of Woodcock & Associates, Inc. and Thomas B. Nicholson, P.E. of C&E Engineering Partners, Inc.
7. The Navy submitted direct and surrebuttal testimony of Ernest Harwig of Brubaker & Associates, Inc. and William Monaco, P.E., Drinking Water Manager, Naval Station Newport Environmental Office.
8. In response to Newport's filing, the Division conducted an investigation of the proposed rate request through data requests and with the assistance of its staff and an outside expert consultant, Thomas S. Catlin who filed direct and surrebuttal testimony.

9. On May 21, 2004 a settlement conference was held at the Division of Public Utilities and Carriers. All of the parties to this Docket, through their representatives, participated in this conference.
10. After due consideration of the testimony, exhibits, schedules, data requests, data responses, settlement discussions, and other documentation included in the filings of the parties in this Docket, Newport, the Division, Portsmouth and the Navy have now agreed to a comprehensive settlement which resolves all issues relating to Newport's application.
11. The parties to this Docket believe that this settlement, as a whole, constitutes a just and reasonable resolution of the issues in this proceeding, and jointly request its approval by the Commission.

## **II. TERMS OF SETTLEMENT**

### **Overview**

12. The parties agree that Newport's current rates provide more than sufficient revenues for the agreed upon rate year expenses. Rather than reduce Newport's rates, the parties have agreed that any revenues in excess of the agreed upon operating expenses and other restricted account needs should be added to the restricted capital amount. The settlement will result in Newport increasing its Operation and Maintenance (O&M) expenses by approximately 45% from \$3,516,979 set in Docket 2985 to \$5,104,396. In addition, Newport's contributions to its restricted accounts for Debt Service and Capital Outlay will decrease by approximately 36% from \$4,103,028 set in Docket 2985 to \$2,612,155.

13. The parties agree that Newport will begin charging a flat retail commodity rate of \$3.38 per thousand gallons. This flat rate will eliminate Newport's current declining block rate structure for retail customers on a revenue neutral basis. In addition, the rate charged to Portsmouth will remain \$1.658 per thousand gallons, and the rate charged to the Navy will remain \$2.0873 per thousand gallons, in accordance with the tariffs in Docket 2985.
14. Incorporated herein and attached hereto as Exhibit 1 are Schedules TSC-1-17 (revised 5/25/04). Newport agrees with these schedules as presented.
15. In addition to the settlement terms set forth in the attached schedules, specific issues raised by the parties, which are addressed in this settlement, are set forth herein below:

**Debt Service and Capital Outlay Restricted Accounts**

16. As set forth herein above, the parties agree that Newport's contributions to its restricted Debt Service and Capital Outlay accounts will be reduced. Contributions to the Debt Service account will be reduced from approximately \$2,701,874 annually to approximately \$1,521,815. Contributions to the Capital Account shall be reduced from approximately \$1,401,154 annually to approximately \$1,090,340. Despite these reductions Newport will be able to meet its debt service and capital needs. The parties request that the Commission's Report and Order establish that these reduced contributions be made effective at the beginning of the rate year – July 1, 2003.
17. A. The amount owed by the Water Department to the City of Newport for loans prior to July 1, 2003 shall be limited to the \$2.5 million dollars claimed in this Docket.

The parties agree that Newport Water may repay this \$2.5 million dollars advanced by the City of Newport. Repayment shall be made out of the debt service fund at the rate of \$500,000 per year for a period of five years. The parties have allocated revenue of \$250,000 to be paid into the debt service fund specifically to offset a portion of this repayment to the City. Therefore, if the Commission approves the request to make the change in restricted account funding effective July 1, 2003 as proposed in Paragraph 16, the initial installment of the repayment will take place in the rate year ending June 30, 2004. This repayment shall be without interest. Newport Water further agrees that it will not seek to recover in rates any additional monies that it may borrow from the City of Newport up through and including June 30, 2005. Newport Water agrees that should the City of Newport loan money to Newport Water after June 30, 2005, said loan shall be reflected by appropriate documentation and Newport Water shall have the duty to monitor and track its costs and properly account for how the loan proceeds are applied.

B. In addition, to the extent that the Commission agrees to re-set the required contributions to the Debt Service account and to the Capital Account as requested in Paragraph 16, the parties agree that Newport Water may return to the City money that the City loaned to Newport Water to fund these accounts for the rate year July 1, 2003 to June 30, 2004, but only to the extent that there are funds in these accounts that exceed the new levels agreed to by the parties to this agreement, and provided Newport Water verifies the amounts when this agreement is presented to the Commission.

**Private Fire Charges**

18. Newport will be allowed to establish two new private fire charges, which will be incorporated into its tariffs. These charges shall be \$46.00 per annum for each 2-inch connection, and \$11 per annum for any connection smaller than 2 inches. These charges will have no effect on the revenue in this Docket as no such connections presently exist.

**Conferences and Training Cost**

19. The parties have agreed to Newport's claim for Conferences and Training Costs, as they believe that funding for these expenses is important. However, the parties wish to ensure that Newport spends these funds solely for their intended purpose. Therefore, Newport will provide updates on its Conference and Training Costs in its semi-annual reports.

**Commission Reports**

20. The parties agree that Newport will provide Portsmouth and the Navy with copies of reports filed with the Commission.

**Restricted Accounts**

21. In addition to Newport's current restricted accounts – Debt Service, Capital and Chemicals – Newport shall establish a restricted account for the Electricity Expenses agreed to by the parties.

**Rate Case Expense**

22. The parties have agreed that the rate case expense for this case is \$181,624. This includes Newport's costs of \$145,565 and the Division's and Commission's costs of \$38,059. These costs are to be amortized over a two-year period. The parties agree

that if Newport does not file a further rate case before July 1, 2005, the money included in the annual revenue requirement for rate case expense will be placed into a restricted account after July 1, 2005.

**Cost Allocation Study**

23. The parties agree that Newport's cost allocation study in this Docket does not seek to charge Portsmouth with transmission, distribution or peak costs associated with supply or treatment. However, should Newport seek to charge Portsmouth with such charges in future rate cases, Newport shall be required to submit a demand study with any cost allocation study. The requirements of the demand study shall be established by the experts for the four parties in this Docket. These requirements of the required demand study as agreed to by the parties are incorporated herein and attached hereto as Exhibit 2.

**Water Quality Issues**

24. The parties agree to take certain steps to address concerns raised in this Docket regarding water quality issues.

A. Newport, Portsmouth and the Navy agree to participate in a joint study that will examine the most efficient way to address on an island-wide basis the Total Trihalomethanes ("THM") issues facing Newport, Portsmouth and the Navy.

B. The study shall be paid for from the Capital Account, and the cost shall not exceed \$125,000.

C. Newport, Portsmouth and the Navy shall cooperate in drafting the Scope of Work (SOW) for the study's Request For Proposal (RFP). The SOW will direct the consultant to investigate and to determine the most efficient treatment method or

methods on a island-wide basis to address the THM concerns, both long-term and short-term, facing the users in Newport, Portsmouth and the areas serviced by the Navy. The consultant will also consider the impact of treatment methods on residual chlorine at the end of the respective distribution systems.

D. Newport, Portsmouth and the Navy agree that they will use their best efforts to complete the SOW within 45 days from the approval of this agreement, and will use their best efforts to complete the study within twelve months from the approval of this agreement.

E. The study shall be performed by an engineering firm agreed to by Newport, Portsmouth and the Navy. Neither CDM, which prepared Newport's Compliance Evaluation Report, nor C&E Engineering Partners, Inc., which testified on behalf of Portsmouth in this Docket, shall be eligible to conduct this study.

F. Newport, Portsmouth, and the Navy will share equal responsibility for coordinating all aspects of the joint THM study, including the SOW, selection of the consultant or engineering firm, and completion of the study. If the parties deadlock on one or more issues concerning the study, they agree that the Division of Public Utilities shall have binding and final authority to resolve the issue after conferring with all three parties.

G. Neither Newport, Portsmouth or the Navy shall be under any obligation to comply with any recommendation made in the study. Each party reserves the right to pursue any course of action suggested by the study, or otherwise.

H. Further, Newport may proceed with the short-term improvements suggested in the 2004 CDM Compliance Evaluation Report.

I. Newport agrees to notify Portsmouth and the Navy of the occurrence of certain events that might affect water quality. Those events are listed on Exhibit 3. The parties agree that informal notification through email or phone calls is both permitted and encouraged.

### **III. Effect of Settlement**

25. This Settlement Agreement is the result of a negotiated settlement. The discussions which have produced this Settlement Agreement have been conducted with the explicit understanding that all offers of settlement and discussion relating thereto are and shall be privileged, shall be without prejudice to the position of any party or participant presenting such offer or participating in any such discussion, and are not to be used in any manner in connection with these or other proceedings.
26. The agreement by any party to the terms of this Settlement Agreement shall not be construed as an agreement as to any matter of fact or law beyond the terms thereof. By entering into this Settlement Agreement, matters or issues other than those explicitly identified in this agreement have not been settled upon or conceded by any party to this Settlement Agreement, and nothing in this agreement shall preclude any party from taking any position in any future proceeding regarding such unsettled matters.
27. In the event that the Commission rejects this Settlement Agreement, or modifies this agreement or any provision therein, then this agreement shall be deemed withdrawn and shall be null and void in all respects.

IN WITNESS WHEREOF, the Parties agree that this Settlement Agreement is reasonable, in the public interest and in accordance with law and regulatory policy, and

have caused this agreement to be executed by their respective representatives, each being authorized to do so.

Dated at Warwick, RI this \_\_\_\_ day of \_\_\_\_\_, 2004.

CITY OF NEWPORT,  
UTILITIES DEPARTMENT,  
WATER DIVISION  
By its Attorney,

---

Joseph A. Keough, Jr. #4925  
KEOUGH & SWEENEY, LTD.  
100 Armistice Boulevard  
Pawtucket, RI 02860  
Tel: (401)-724-3600

DIVISION OF PUBLIC UTILITIES  
AND CARRIERS,  
By its Attorney,

---

Leo J. Wold, # 3613  
Special Assistant Attorney General  
150 South Main Street  
Providence, RI 02903  
Tel: 401-274-4400, ext. 2218

PORTSMOUTH WATER AND FIRE DISTRICT  
By its Attorney,

---

Gerald J. Petros, # 2931  
Hinckley, Allen & Snyder, LLP  
1500 Fleet Center  
Providence, RI 02903  
Tel: 401-274-2000

UNITED STATES  
DEPARTMENT OF THE NAVY  
By its Attorney,

---

Audrey Van Dyke, #  
Counsel For the Secretary of the Navy  
Litigation Headquarters  
1314 Harwood Street, Suite 412  
Washington Navy Yard, DC 20374  
Tel: 202-685-1931

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**Exhibit 1**

Docket No. 3578  
Schedule TSC-1  
Revised 5/25/2004

CITY OF NEWPORT--WATER DIVISION

Summary of Revenues and Expenses at  
Present and Proposed Rates  
Rate Year Ended June 30, 2004

	Revised Rate Year Amount Per Newport	Updated Division Adjustments	Rate Year at Present Rates	Allowable Revenue Increase	Rate Year at Proposed Rates
<b>Revenue</b>					
Customer Charge	\$ 556,555	\$ -	\$ 556,555		\$ 556,555
Retail Consumption	4,693,428	(56,503)	4,636,925		4,636,925
Wholesale/Bulk Sales	1,553,875	55,235	1,609,110		1,609,110
Fire Protection	765,610	-	765,610		765,610
Miscellaneous	246,100	18,000	264,100		264,100
Total Revenue	<u>\$ 7,815,568</u>	<u>\$ 16,732</u>	<u>\$ 7,832,300</u>	<u>\$ -</u>	<u>\$ 7,832,300</u>
<b>Expenses</b>					
Water Administration	1,154,298	(9,590)	1,144,708	-	1,144,708
Customer Accounts	477,945	953	478,898	-	478,898
Source of Supply-Island	398,015	(21,152)	376,863	-	376,863
Source of Supply-Mainland	79,500	18,850	98,350	-	98,350
Treatment & Pumping-Newport Plant	1,188,960	(37,694)	1,151,266	-	1,151,266
Treatment & Pumping-Lawton Valley	959,855	(86,916)	872,939	-	872,939
Water Laboratory	199,347	(310)	199,037	-	199,037
Transmission & Distribution Maintenance	771,613	(3,278)	768,335	-	768,335
Fire Protection	14,000	-	14,000	-	14,000
Subtotal	<u>\$ 5,243,533</u>	<u>\$ (139,137)</u>	<u>\$ 5,104,396</u>	<u>\$ -</u>	<u>\$ 5,104,396</u>
Payment to City General Fund-Net	250,000	\$ -	250,000	-	250,000
Debt Service	1,271,815		1,271,815	-	1,271,815
Capital Outlays	941,667	148,673	1,090,340	-	1,090,340
Total Expenses	<u>\$ 7,707,015</u>	<u>\$ 9,536</u>	<u>\$ 7,716,551</u>	<u>\$ -</u>	<u>\$ 7,716,551</u>
Operating Reserve	115,605	143	115,748	-	115,748
Total Cost of Service	<u>\$ 7,822,620</u>	<u>\$ 9,680</u>	<u>\$ 7,832,300</u>	<u>\$ -</u>	<u>\$ 7,832,300</u>
Revenue Surplus/(Deficiency)	(\$7,052)	\$7,052	\$0	\$ -	\$0

CITY OF NEWPORT--WATER DIVISION

Summary of Division Adjustments to  
 Rate Year Revenues and Expenses at Present Rates  
 Rate Year Ending December 31, 2004

<u>Description</u>	<u>Amount</u>	<u>Source</u>
Fire Service Revenue	\$ -	Schedule TSC-3
Miscellaneous Charges	18,000	Schedule TSC-4
Water Sales Revenue	(1,268)	Schedule TSC-17
Total Revenue Adjustments	\$ 16,732	
Benefits Expense	(48,903)	Schedule TSC-5
Rate Case Expense	(9,188)	Schedule TSC-6
Regulatory Reporting Expense	-	Schedule TSC-7
Electricity	(50,646)	Schedule TSC-8
Chemical Costs	(30,400)	Schedule TSC-9
Sewer Charges	-	Schedule TSC-10
Conferences & Training Expense	-	Schedule TSC-11
Telephone & Communications	-	Schedule TSC-12
Costs to be Charged to Restricted Fund	-	Schedule TSC-13
Payment to City	-	Schedule TSC-15
Capital Outlay Restricted Funding	148,673	Schedule TSC-1
Operating Reserve	143	See Note (1)
Total Expense Adjustments	\$ 9,680	
Total Adjustment to Revenue Deficiency	(7,052)	

Note:

(1) Based on 1.5% of total expenses as reflected on Schedule TSC-1.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Fire Service Revenues to Reflect  
 Increase in Numbers of Services and Hydrants  
 Rate Year Ending June 30, 2004

	<u>Number (1)</u>	<u>Current Rate</u>	<u>Annual Revenue</u>
<b>Private Fire Services</b>			
5/8-Inch	-	\$ -	\$ -
2-Inch	-	-	-
4-Inch	43	285	12,255
6-Inch	229	570	130,530
8-Inch	58	1,305	75,690
10-Inch	1	2,155	2,155
12-Inch	1	3,460	3,460
Total	<u>332</u>		<u>\$ 224,090</u>
<b>Public Fire Hydrants</b>	967	560	<u>541,520</u>
Total Fire Service Revenue			\$ 765,610
Amount Per Newport (2)			<u>765,610</u>
Adjustment to Revenue			<u>\$ -</u>

Notes:

(1) Number of Private Fire Services as of December 31, 2003 and number of Public Fire Hydrants as of January 2004 per response to DIV 3-14.

(3) Reflects rebuttal claim per Revised Schedule RFC 6.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Miscellaneous Revenue  
Rate Year Ending June 30, 2004

<b>Investment Interest Income</b>	
Estimate Based on Actuals through 12/31/03 (1)	\$ 38,000
Amount per Filing (2)	<u>20,000</u>
Increase	\$ 18,000
 <b>Customer Services Revenue</b>	
Estimated Revenue (2)	\$ 85,000
Amount per Filing (3)	<u>85,000</u>
Increase	\$ -
 Total Increase in Miscellaneous Revenue	 <u><u>\$ 18,000</u></u>

Notes:

- (1) Reflects \$19,002 of interest income through 12/31/03 per response to DIV 2-3.
- (2) Per Schedule RFC-2.
- (3) Reflects rebuttal claim per Revised Schedule RFC 1-A.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Budgeted Benefits Expense  
To Reflect Actual Costs Incurred  
Rate Year Ending June 30, 2004

	<u>Benefits Expense per Filing (1)</u>	<u>Annualized Based on Actuals (2)</u>	<u>Adjustment</u>
Administration	\$ 46,475	\$ 46,886	\$ 411
Administration-Retiree	153,758	152,972	(786)
Administration-Workers' Compensation	36,400	36,400	-
Customer Service	108,472	109,425	953
Supply-Island	87,681	70,289	(17,392)
Supply-Mainland	2,000	-	(2,000)
Treatment-Newport	160,228	153,071	(7,157)
Treatment-Lawton Valley	159,353	137,011	(22,342)
Laboratory	37,739	37,429	(310)
Transmission & Distribution	<u>145,099</u>	<u>144,819</u>	<u>(280)</u>
Total Amount	<u>\$ 937,205</u>	<u>\$ 888,302</u>	<u>\$ (48,903)</u>

Notes:

(1) Per Schedule RFC 1-A.

(2) Per schedule included under Tab 11 accompanying rebuttal testimony of Julia Forge.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Rate Case Expense  
Rate Year Ending June 30, 2004

	<u>Total</u>
Adjusted Rate Case Costs (1)	\$ 181,624
Amortization Period	<u>2 Years</u>
Annual Expense Allowance per Division (1)	\$ 90,812
Annual Expense per Newport (2)	<u>\$ 100,000</u>
Adjustment to Expense	<u><u>\$ (9,188)</u></u>

Notes:

(1) Updated to include \$143,565 for Newport and \$38,059 for the Division.

(2) Reflects rebuttal claim per Revised Schedule RFC 1-A.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Regulatory Reporting Expense  
Rate Year Ending June 30, 2004

	<u>Amount</u>
Regulatory Reporting Costs per books	
Consumer Confidence Report (1)	\$ 5,370
Turbidity Notice (2)	9,839
TOC Notice (2)	<u>6,772</u>
Total Test Year Expense	\$ 21,981
Normalization and Rate Year Adjustments (3)	
Postage	(12,494)
Support Services	(2,857)
Regulatory Reporting	<u>20,000</u>
Total Adjustments	\$ 4,649
Adjusted Expense included in Rate Year per Rebuttal	\$ 26,630
Required Annual Amount	<u>26,630</u>
Adjustment to Rate Year Expense	<u><u>\$ -</u></u>

Notes:

(1) Per response to DIV 1-18.

(2) Per response to DIV 3-7.

(3) Reflects rebuttal claim per Revised Schedule RFC 1-A. Amount for postage reflects decrease in expense in Customer Accounts net of increase in Administration for line item 238.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Budgeted Electricity Expense  
 To Reflect Actual Expense  
 Rate Year Ending June 30, 2004

	Budgeted Expense per Filing (1)	Annual Based on Last 24 Months (2)	Adjustment
Administration	\$ 3,600	\$ 3,573	\$ (27)
Supply-Island	10,300	6,540	(3,760)
Supply-Mainland (3)	23,000	43,850	20,850
Treatment-Newport	186,100	176,552	(9,548)
Treatment-Lawton Valley	142,000	86,837	(55,163)
Transmission & Distribution	14,000	11,002	(2,998)
 Total Amount	 <u>\$ 379,000</u>	 <u>\$ 328,354</u>	 <u>\$ (50,646)</u>

Notes:

- (1) Per Newport Water Schedule 1 included with rebuttal of Harold Smith.
- (2) Per responses to DIV 1-20 and 5-4. Amounts based on costs for 24 months ended March 2004. Excludes one time charge of \$1,572 in February 2004 related to change out to energy efficient light fixtures.
- (3) Includes \$8,000 contingency for dry weather pumping.

CITY OF NEWPORT--WATER DIVISION

Analysis of Average Annual Chemical Costs  
 at the Newport and Lawton Valley Water Treatment Plants  
 Rate Year Ended June 30, 2004

<u>Chemical</u>	<u>FY 2002 Usage in Pounds (1)</u>	<u>FY 2003 Usage in Pounds (2)</u>	<u>TME 4/04 Usage in Pounds (3)</u>	<u>Maximum Annual Usage (4)</u>	<u>Current Cost Per Pound (5)</u>	<u>Annual Cost (6)</u>
<b>Newport Water Treatment Plant</b>						
Alum	311,999	328,912	366,849	366,849	\$ 0.1079	39,574
Lime	184,043	166,541	199,264	199,264	0.0644	12,833
Chlorine	56,750	51,880	50,840	56,750	0.2450	13,904
Flouride	15,291	13,843	19,825	19,825	0.3000	5,948
Sodium Chlorite	77,556	93,334	77,849	93,334	0.5270	49,187
Polymer	1,000	1,300	1,250	1,300	4.8700	6,331
Subtotal						<u>\$ 127,776</u>
Granular Activated Carbon						<u>45,830</u>
Annual Cost Based on Maximum Usage						<u>\$ 173,606</u>
Amount per Newport Filing (2)						<u>\$ 194,595</u>
Adjustment to Chemicals Expense						<u>\$ (20,989)</u>
<b>Lawton Valley Water Treatment Plant</b>						
Alum	476,483	498,285	374,083	498,285	\$ 0.1079	53,752
Lime	233,900	235,000	185,450	235,000	0.0785	18,445
Chlorine	39,640	37,027	32,534	39,640	0.2450	9,712
Flouride	15,526	12,766	16,119	16,119	0.3000	4,836
Sodium Chlorite	95,103	80,219	67,141	95,103	0.5270	50,119
Annual Cost Based on Maximum Usage						<u>\$ 136,864</u>
Allowance for Additional Needs from Compliance Evaluation Study						<u>20,000</u>
Adjusted Annual Costs						<u>\$ 156,864</u>
Amount per Newport Filing (2)						<u>\$ 166,275</u>
Adjustment to Chemicals Expense						<u>\$ (9,411)</u>

Notes:

(1) All quantities and prices are per the response to DIV 5-6.

(2) Reflects rebuttal claim per Revised Schedule RFC 1-A.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Newport Sewer Charges  
Rate Year Ending June 30, 2004

	<u>Total</u>
Lawton Valley Sewer Charges per Filing (1)	\$ -
Rate Year Amount per Division (2)	<u>-</u>
Adjustment to Expense	<u><u>\$ -</u></u>

Notes:

- (1) Reflects rebuttal claim per Revised Schedule RFC 1-A.
- (2) Recognizes that Lawton Valley is not anticipated to begin discharging waste to Newport sewer system before December 2005.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Reflect Average  
Conferences & Training Expense  
Rate Year Ending June 30, 2004

	<u>Amount per Filing (1)</u>	<u>Amount per Amount per Division</u>	<u>Adjustment</u>
Administration	\$ 2,000	\$ 2,000	\$ -
Treatment-Newport	2,500	2,500	-
Treatment-Lawton Valley	3,500	3,500	-
Transmission & Distribution	# <u>4,000</u>	<u>4,000</u>	<u>-</u>
Total Amount	<u>\$ 12,000</u>	<u>\$ 12,000</u>	<u>\$ -</u>

Notes:

(1) Per Schedule RFC 1-A.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Telephone & Communications Expense  
Rate Year Ending June 30, 2004

Telephone & Communications Expense per Filing (1)	\$ 10,200
Annualized Expense based on Current Services (2)	<u>\$ 10,200</u>
Adjustment to Rate Year Cost of Service	<u><u>\$ -</u></u>

Notes:

- (1) Reflects rebuttal claim per Revised Schedule RFC 1-A.
- (2) Reflects acceptance of revised claim.

CITY OF NEWPORT--WATER DIVISION

Adjustment to O&M Expense to Remove Capital Items  
Rate Year Ending June 30, 2004

<u>Description</u>	<u>Amount</u>
Depth Surveys (1)	\$ 50,000
Vulnerability Assessment (2)	85,000
Reservoir Road Tank Repairs (3)	<u>40,000</u>
Total to be Paid from Restricted Fund	\$ 175,000
Amount Removed from O&M by Newport (4)	<u>\$ 175,000</u>
Adjustment to Rate Year O&M Expense	<u><u>\$ -</u></u>

Notes:

- (1) Per response to DIV 1-15.
- (2) Per response to DIV 1-17.
- (3) Per response to DIV 1-27.
- (4) Reflects rebuttal claim per Revised Schedule RFC 1-A.

CITY OF NEWPORT--WATER DIVISION

Analysis of Revenues and  
 Restricted Account Funding for FY 2001-FY 2003 (3)  
 Rate Year Ending June 30, 2004

	<u>FY 2001</u>	<u>FY2002</u>	<u>FY 2003</u>
Billed Revenue Per Books (1)	\$ 7,644,448	\$ 6,928,286	\$ 7,464,619
Change in Customer Accounts Receivable (1)	<u>96,649</u>	<u>(69,951)</u>	<u>286,211</u>
Audited Revenue	<u>\$ 8,316,871</u>	<u>\$ 7,079,648</u>	<u>\$ 7,805,427</u>
Authorized Revenue In Docket No. 2985	<u>\$ 7,658,108</u>	<u>\$ 7,658,108</u>	<u>\$ 7,658,108</u>
Percent of Authorized Revenues Collected	<u>108.60%</u>	<u>92.45%</u>	<u>101.92%</u>
Restricted Funding Requirement (2)	\$ 4,395,214	\$ 4,395,214	\$ 4,395,214
Amount Available Based on Percent Collected	<u>4,773,298</u>	<u>4,063,219</u>	<u>4,479,765</u>
Difference Between Requirement and Available	\$ 378,084	\$ (331,995)	\$ 84,551
Total Difference FY 2001-FY2003			<u>\$ 130,639</u>

Notes:

(1) Per schedule included under Tab 8 accompanying rebuttal testimony of Julia Forge.

(2) Based on following amounts from Docket No. 2985:

Chemicals	\$ 292,186
Debt Service	2,701,874
Capital Outlays	<u>1,401,154</u>
Total	<u>\$ 4,395,214</u>

(3) Schedule has been updated to be consistent with Newport rebuttal regarding revenues and shows revenue shortfalls were not cause of need for City to advance funds.

CITY OF NEWPORT--WATER DIVISION

Adjustment to Eliminate Repayment to City  
Rate Year Ending June 30, 2004

	<u>Total</u>
Repayment Included as Current Expense (1)	\$ 250,000
Rate Year Amount per Division	<u>250,000</u>
Adjustment to Expense	<u><u>\$ -</u></u>

Note:

(1) Per Schedule RFC 12.

(2) Reflects acceptance of Water Division claim based on rebuttal testimony.

CITY OF NEWPORT--WATER DIVISION

Analysis of Restricted Account Balances for FY 2004-FY 2008  
 Based on Proposed Funding and Current Cost Estimates  
 Rate Year Ending June 30, 2004

	<i>Fiscal Year Ending June 30</i>				
	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>
<b><u>Debt Service Account</u></b>					
<b>Beginning Cash Balance</b>	\$ 1,975,973	\$ 1,304,416	\$ 1,069,033	\$ 604,611	\$ 191,577
<b><u>Additions</u></b>					
Debt Service Funding Contribution	\$ 1,521,815	\$ 1,521,815	\$ 1,521,815	\$ 1,521,815	\$ 1,521,815
Interest Income	30,141	32,804	23,734	16,736	7,962
<b>Total Additions</b>	<u>\$ 1,551,956</u>	<u>\$ 1,554,619</u>	<u>\$ 1,545,549</u>	<u>\$ 1,538,551</u>	<u>\$ 1,529,777</u>
<b><u>Deductions</u></b>					
Existing Debt Service	1,723,513	1,290,002	1,232,054	1,173,667	1,114,840
SRF Loan Principal	-	-	133,093	133,093	133,093
SRF Loan Interest	-	-	144,825	144,825	144,825
Return Excess Contributions FY 2001-2003	500,000	500,000	500,000	500,000	500,000
<b>Total Deductions</b>	<u>2,223,513</u>	<u>1,790,002</u>	<u>2,009,972</u>	<u>1,951,585</u>	<u>1,892,758</u>
<b>Ending Cash Balance</b>	<u>\$ 1,304,416</u>	<u>\$ 1,069,033</u>	<u>\$ 604,611</u>	<u>\$ 191,577</u>	<u>\$ (171,403)</u>
<b><u>Capital Spending Account</u></b>					
<b>Beginning Cash Balance</b>	\$ 2,473,692	\$ 1,465,780	\$ 730,101	\$ 392,400	\$ 597,965
<b><u>Additions</u></b>					
Capital Outlays Funding Contribution	\$ 1,090,340	\$ 1,090,340	\$ 1,090,340	\$ 1,090,340	\$ 1,090,340
Interest income	41,333	39,395	21,959	11,225	9,904
<b>Total Additions</b>	<u>\$ 1,131,673</u>	<u>\$ 1,129,735</u>	<u>\$ 1,112,299</u>	<u>\$ 1,101,565</u>	<u>\$ 1,100,244</u>
<b><u>Deductions</u></b>					
Capital Outlays per Newport Filing	1,964,586	1,865,414	1,450,000	896,000	896,000
Capital Items Removed from O&M	175,000	-	-	-	-
<b>Total Deductions</b>	<u>2,139,586</u>	<u>1,865,414</u>	<u>1,450,000</u>	<u>896,000</u>	<u>896,000</u>
<b>Ending Cash Balance</b>	<u>\$ 1,465,780</u>	<u>\$ 730,101</u>	<u>\$ 392,400</u>	<u>\$ 597,965</u>	<u>\$ 802,209</u>

CITY OF NEWPORT--WATER DIVISION

Adjustment to Sales Volumes  
 and Revenues at Present Rates  
 Rate Year Ending December 31, 2004

<u>Portsmouth</u>	Sales Volumes (1000 gallons)	Adjustment to Revenue
FY 2000	438,179	
FY 2001	442,582	
FY 2002	455,142	
FY 2003	451,723	
Average Volume	<u>446,907</u>	
System Compound Growth Rate	<u>1.0068</u>	
Adjusted Rate Year Volume	449,945	
Current Wholesale Rate	<u>\$ 1.658</u>	
Adjusted Revenue	\$ 746,010	
Revenue per Newport Rebuttal	<u>695,494</u>	
Adjustment to Revenue at Present Rates		\$ 50,516
<u>U.S. Navy</u>		
Rate Year Volume per Newport	413,501	
Current Rate to Navy	<u>\$ 2.0873</u>	
Adjusted Revenue	863,101	
Revenue per Newport Rebuttal	<u>858,381</u>	
Adjustment to Revenue at Present Rates		\$ 4,720
<u>Retail Sales</u>		
Projected Rate Year Volumes	1,370,476	
Volumes Utilized for Revenue at Present Rates	<u>1,387,176</u>	
Ratio of Rate Year to Present Rate Volumes	98.80%	
Revenue at Present Rates per Newport Filing	<u>\$ 4,693,428</u>	
Corrected Revenue based on Rate year Volumes	\$ 4,636,925	
Adjustment to Revenue at Present Rates		<u>\$ (56,503)</u>
<b>Total Adjustment to Revenue at Present Rates</b>		<u><u>\$ (1,268)</u></u>

## **Exhibit 2**

### **Newport Water Demand Study**

#### Purpose

The Water Demand Study is intended to satisfy the requirements imposed by the RI PUC in Docket 2985. The purpose of the water demand study will be to gather data with respect to the water demand characteristics of the different customer classes that are served by Newport Water to better allocate the costs associated with meeting peak demand to the customers responsible for the peaks.

#### Methodology

Once it has been determined that the Demand Study is necessary, Newport Water will propose a methodology to each of the parties in this docket for review and comment. It is expected that it may be necessary to gather data on a daily basis from the meters used to measure consumption by each of Newport's wholesale customers and from statistically representative samples of each of Newport's retail customer classes. :

**Retail** – Newport may gather daily demand data from a statistically representative sample of customers from each of its retail customer classes or may determine the peak demands of the retail class through some other agreed upon method. This data can be gathered either by using remote meter reading capabilities or by direct daily reading of meters without remote read capabilities. It is anticipated that these data collection efforts would focus on those periods of the year or years in which peak demands are expected to occur and therefore would not necessarily continue during the course of an entire year(s).

**Portsmouth** – Newport may utilize daily demand data for Portsmouth that is collected by Portsmouth's SCADA system.

**Navy** – It is anticipated that daily demand data for the Navy can be gathered by reading the meters used to serve the Navy on a daily basis during the portion of the year(s) in which peak demands are expected to occur.

The maximum cost for the study should be limited to \$75,000 unless it can be demonstrated that a study of that magnitude will not yield the necessary information.

**EXHIBIT 3**  
**NEWPORT WATER DEPARTMENT**  
**NOTIFICATION TO THE UNITED STATES NAVY AND THE**  
**PORSTMOUTH WATER AND FIRE DISTRICT**

Pursuant to the Settlement Agreement reached in Docket 3578, Newport Water agrees to notify Portsmouth and the Navy of the occurrence of certain events that might affect water quality. Further, Portsmouth and the Navy agree to provide notice to Newport of certain events as well. Those events are listed on herein, and the parties agree that informal notification through email or phone calls is both permitted and encouraged.

**I. CHANGES IN TREATMENT PROCESSES**

**1. (Notification within 24 hours)**

- a) Changes in the type or form of treatment chemicals.
- b) Changes in the application point(s) of treatment chemicals.
- c) Discontinuation or reinstatement of chemicals normally used in the treatment process, e.g. chlorine dioxide, if discontinued for over fours hours.
- d) Treatment plant repairs that take whole or partial process units out of service for over fours hours.
- e) Changes in point of treatment (disinfection) application.

**II. MISCELLANEOUS CHANGES AFFECTIING WATER QUALITY**

**1. (Notification within 24 hours)**

- a) Manganese problem at WTP.
- b) Any other known problems or circumstances in the reservoirs or treatment plant that may impact treated water taste, odor or color.
- c) Any total coliform positive microbiological repeat-sample or any fecal coliform positive sample.
- d) Known violations of Rhode Island or EPA Rules and Regulations Pertaining to Public Drinking Water Safe Drinking Water Act at either plant or in the distribution system.

**2. (Notification within 48 Hours, or next business day following a weekend or holiday)**

- a) Turn-on or turn-off of Sakonnet River Pipeline.
- b) Application of copper sulfate to any reservoir.
- c) Use of Watson Pond

### **3. (Notification as soon as possible, no later than 30 days)**

Chlorite and Chlorine Dioxide, when elevated levels require testing within distribution system. Notify as soon as possible but not to exceed 30 days after elevated level is known

### **4. Miscellaneous Notifications**

- a) Navy to be notified of flushing schedules as soon as available so that the Navy can set up a schedule to piggy back flushing efforts.
- b) Water main breaks near Navy entry points within 24 hrs or next business day.
- c) Provide copies of compliance sample results for coliform, TTHM , and Lead & Copper, including all special purpose samples related to compliance samples at the same time compliance samples are submitted to the required regulatory agency.

## **III. NOTIFICATION TO NEWPORT**

Newport requests notification of the following events:

- a) Notification of violations of Rhode Island or EPA Rules and Regulations Pertaining to Public Drinking Water Safe Drinking Water Act in the distribution system within 24 hours.(Portsmouth & Navy)
- b) Any total coliform positive microbiological repeat-sample or fecal coliform positive sample within 24 hours. (Portsmouth & Navy)
- c) Notification of maintenance on any storage facilities that creates a significant /unusual demand, with explanation within 24 hours or next business day following holiday or weekend. (Navy & Portsmouth)
- d) Notification when the Navy implements chlorine or any chemical addition into their system within 24 hours or next business day following holiday or weekend.
- e) Notification of any restrictions, with explanation, imposed on the use of water in distribution system, including any currently in place, within 24 hours or next business day following holiday or weekend. (Navy)
- f) Provide copies of compliance sample results for coliform, TTHM , and Lead & Copper, including all special purpose samples related to compliance samples at the same time compliance samples are submitted to the required regulatory agency. (Portsmouth & Navy).
- g) Notification of sudden main breaks on pipes 8-inches and larger in the distribution system within 24 hours. Newport Water has staff on duty 24/7 to answer calls at 847-0154. (Portsmouth & Navy)
- h) Notification of any alteration of valves at the metering points to the Newport system within 24 hours or next business day following holiday or weekend. (Navy).
- i) Notification of flushing schedule as soon as available. (Portsmouth & Navy)

## APPENDIX B

### Memo

To: Elia, Kate, Bob

From: Alan, Cindy

Date: 8/11/04

**RE: 3578 -- Newport Water Reporting Requirements**

Attached are the **final** formats for the schedules Newport Water will be submitting periodically. These formats have been developed from meetings with Newport Water and the Division and conversations with the Commissioners. The **next step** is for the Commission to approve these formats at open meeting, the next is scheduled for August 19<sup>th</sup>. The schedules and frequency of submission are as follows:

- A) Balance Sheet - Quarterly
- B) Year to Date Income Statement – Quarterly
- C) Quarterly Income Statement – Quarterly
- D) Cash Flow Statement – Quarterly
- E) Restricted Account Analysis – Quarterly
- F) Accounting of Julia's Time – Quarterly
- G) Cash Reconciliation – Monthly

In addition, Newport has agreed to provide a brief narrative on a monthly basis and a longer narrative on a quarterly basis describing the financial position of the water division.

Newport has agreed that the monthly reports will be submitted on the 15<sup>th</sup> day of the following month. As such, the first monthly report, for the month of July, would be due August 15<sup>th</sup>. Since the format of the report will probably not be approved at Opening Meeting until August 19<sup>th</sup>, I would recommend an extension be granted to August 27<sup>th</sup> for the July report. For quarterly reports, the first report will be for the quarter ended September 30<sup>th</sup>. Newport has requested they be allowed to submit the quarterly reports on the last day of the month following the end of the quarter (October 31<sup>st</sup>). This seems reasonable.

Once these schedules are approved, they should not be changed until after a one year compliance review. This insures that the Commission will be able to enforce the provisions of its Order conditioning repayment to the City on compliance with all reporting requirements.

**Please let me know if you are all comfortable with putting this on the agenda for the August 19<sup>th</sup> Open Meeting.**

**UNAUDITED**

CITY OF NEWPORT, RHODE ISLAND  
**STATEMENT OF NET ASSETS - COMPARITIVE**  
**WATER FUND**  
**QUARTER ENDED SEPTEMBER 30, 2004**

	QUARTER 9/30/04	QUARTER 6/30/04	QUARTER 9/30/03	% Change From Prior Year
<b><u>ASSETS</u></b>				
Current assets:				
Cash and cash equivalents - unrestricted.....	\$ -	-		
Cash and cash equivalents - restricted.....	-	-		
Accounts receivable:				
User fees (net of allowances).....	-	-		
Other.....	-	-		
Due from other funds.....	-	-		
Inventories.....	-	-		
Prepaid expenses.....	-	-		
Total current assets.....	-	-		
Noncurrent assets:				
Capital assets.....				
Less accumulated depreciation.....	-	-		
Total noncurrent assets.....	-	-		
<b>TOTAL ASSETS.....</b>	<b>\$ -</b>	<b>\$ -</b>		
LIABILITIES:				
Current liabilities:				
Accounts payable.....	\$ -	-		
Accrued expenses.....	-	-		
Amounts held in escrow.....	-	-		
Deferred revenues.....	-	-		
Current portion bonds payable.....	-	-		
Total current liabilities.....	-	-		
Long-term liabilities:				
Bonds payable.....	-	-		
Total long-term liabilities.....	-	-		
<b>TOTAL LIABILITIES.....</b>	<b>-</b>	<b>-</b>		
NET ASSETS:				
Invested in capital assets (net of related debt).....	-	-		
Reserved for commitments.....	-	-		
Unrestricted.....	-	-		
<b>TOTAL NET ASSETS.....</b>	<b>\$ -</b>	<b>\$ -</b>		

PROOF

UNAUDITED

CITY OF NEWPORT, RHODE ISLAND

STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS  
 WATER FUND  
 YEAR TO DATE AS OF SEPTEMBER 30, 2004

	PER SETTLEMENT AGREEMENT	PER FY05 BUDGET	PRIOR YTD	FY05 ACTUAL	VARIANCE	PERCENT VARIANCE
OPERATING REVENUES:						
Customer Charges	\$ 556,555					
Retail Consumption	4,636,925					
Wholesale/Bulk Sales	1,609,110					
Fire Protection	765,610					
Miscellaneous	264,100	-		-		
TOTAL OPERATING REVENUES	\$ 7,832,300	\$ -		\$ -	\$ -	\$ -
OPERATING EXPENSES:						
Water Administration	\$ 1,144,708					
Customer Accounts	478,898					
Source of Supply - Island	376,863					
Source of Supply - Mainland	98,350					
Treatment & Pumping - Newport Plant	1,151,266					
Treatment & Pumping - Lawton Valley	872,939					
Water Laboratory	199,037					
Transmission & Distribution Maintenance	768,335					
Fire Protection	14,000					
TOTAL OPERATING EXPENSES	5,104,396	-		-	-	-
OTHER:						
Payment to City General Fund	250,000					
Debt Service	1,271,815					-
Capital Outlays	1,090,340					-
TOTAL OTHER	2,612,155	-		-	-	-
TOTAL EXPENSES	7,716,551	-		-	-	-
OPERATING RESERVE	115,749					
TOTAL COST OF SERVICE	\$ 7,832,300	\$ -		\$ -	\$ -	\$ -
REVENUE SURPLUS (DEFICIENCY)	\$ -	\$ -		\$ -	\$ -	\$ -
TOTAL NET ASSETS - JUNE 30, 2004						-
TOTAL NET ASSETS - SEPTEMBER 30, 2004	\$ -	\$ -		\$ -	\$ -	\$ -

- -

**UNAUDITED**

CITY OF NEWPORT, RHODE ISLAND

**STATEMENT OF REVENUES, EXPENSES, AND CHANGES IN FUND NET ASSETS - COMPARATIVE  
WATER FUND  
FOR THE QUARTER ENDED SEPTEMBER 30, 2004**

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	QUARTER ENDED 9/30/04	QUARTER ENDED 6/30/04	QUARTER ENDED 3/31/04	QUARTER ENDED 12/31/03
OPERATING REVENUES:				
Customer Charges				
Retail Consumption				
Wholesale/Bulk Sales				
Fire Protection				
Miscellaneous				
TOTAL OPERATING REVENUES	\$ -	\$ -	\$ -	\$ -
OPERATING EXPENSES:				
Water Administration				
Customer Accounts				
Source of Supply - Island				
Source of Supply - Mainland				
Treatment & Pumping - Newport Plant				
Treatment & Pumping - Lawton Valley				
Water Laboratory				
Transmission & Distribution Maintenance				
Fire Protection				
TOTAL OPERATING EXPENSES				
OTHER:				
Payment to City General Fund				
Debt Service				
Capital Outlays				
TOTAL OTHER	-	-	-	-
TOTAL EXPENSES				
OPERATING RESERVE				
TOTAL COST OF SERVICE	\$ -	\$ -	\$ -	\$ -
REVENUE SURPLUS (DEFICIENCY)	\$ -	\$ -	\$ -	\$ -
TOTAL NET ASSETS - JUNE 30, 2004	-	-	-	-
TOTAL NET ASSETS - SEPTEMBER 30, 2004	\$ -	\$ -	\$ -	\$ -

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**UNAUDITED**

CITY OF NEWPORT, RHODE ISLAND

STATEMENT OF CASH FLOWS  
 WATER FUND  
 FOR THE YEAR TO DATE ENDED SEPTEMBER 30, 2004

	ACTUAL	ANNUAL BUDGET	% ACTUAL TO BUDGET
CASH FLOWS FROM OPERATING ACTIVITIES:			
Cash received from customers			
Cash payments to suppliers for goods and services			
Cash payments to employees for services			
Payment of property taxes			
Payment of administrative expense			
Cash received (payment) for miscellaneous items	-		
NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES	-		
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:			
Acquisition and construction of capital assets			
Principal (paid) received on bonds, notes and loans			
Interest paid on bonds, notes and loans			
NET CASH USED IN CAPITAL AND RELATED FINANCING ACTIVITIES	-		
CASH FLOWS FROM INVESTING ACTIVITIES:			
Interest and dividends on investments			
Increase in investments			
Interest expense	-		
NET CASH PROVIDED BY (USED FOR) INVESTING ACTIVITIES	-		
NET INCREASE (DECREASE) IN CASH	-		
CASH AND CASH EQUIVALENTS - JUNE 30, 2004	-		
CASH AND CASH EQUIVALENTS- SEPTEMBER 30, 2004	<u>\$ -</u>		
RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:			
Operating income (loss)	-		
Adjustments to reconcile operating income (loss) to net cash provided (used ) by operating activities:			
Depreciation and amortization	-		
Changes in assets and liabilities:			
(Decrease) Increase in accounts payable/other liabilities	-		
Decrease (Increase) in accounts receivable/other assets	-		
NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES	<u>\$ -</u>		

City of Newport, Rhode Island  
 Restricted Accounts Analysis  
 FY04-05

	<b>Capital</b>	<b>Debt Service</b>	<b>Chemicals</b>	<b>Electricity</b>	<b>Repayment</b>
Cash Balance at 6/30/04	2,530,998.32	92,514.00	986.02	-	1,500,000.00
July 28 - Monthly Required Funding	90,862.00	126,818.00	27,539.00	27,363.00	20,833.00
July Interest Earned					
Transfer Interest to Checking					
Transfer to Checking For Expenditures					
August 28 - Monthly Required Funding	90,862.00	126,818.00	27,539.00	27,363.00	20,833.00
August Interest Earned					
Transfer Interest to Checking					
Transfer to Checking For Expenditures					
September 28 - Monthly Required Funding	90,862.00	126,818.00	27,539.00	27,363.00	20,833.00
September Interest Earned					
Transfer Interest to Checking					
Transfer to Checking For Expenditures					
September 30 Bank Balance					



**UNAUDITED****CITY OF NEWPORT, RHODE ISLAND****MONTHLY CASH FLOW RECONCILIATION  
WATER FUND  
FOR THE MONTH ENDED JULY 31, 2004**

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	PRIOR YEAR MONTHLY ACTUAL	CURRENT MONTHLY ACTUAL	VARIANCE	PERCENT VARIANCE
BEGINNING CASH				
OPERATING REVENUES:				
Customer Charges	\$ 46,380			
Retail Consumption	386,410			
Wholesale/Bulk Sales	134,093			
Fire Protection	63,801			
Miscellaneous	22,008			
TOTAL OPERATING REVENUES	\$ 652,692		\$ -	0.00%
OPERATING EXPENSES:				
Water Administration	95,392			
Customer Accounts	39,908			
Source of Supply - Island	31,405			
Source of Supply - Mainland	8,196			
Treatment & Pumping - Newport Plant	95,939			
Treatment & Pumping - Lawton Valley	72,745			
Water Laboratory	16,586			
Transmission & Distribution Maintenance	64,028			
Fire Protection	1,167			
TOTAL OPERATING EXPENSES	425,366		-	0.00%
OTHER:				
Payment to City General Fund	20,833			
Debt Service	105,985			0.00%
Capital Outlays	90,862			0.00%
TOTAL OTHER	217,680		-	0.00%
TOTAL EXPENSES	643,046		-	0.00%
OPERATING RESERVE	9,646			
TOTAL COST OF SERVICE	\$ 652,692		\$ -	0.00%
NET CASH FLOW	\$ -		\$ -	0.00%
ENDING CASH				