

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PRUDENCE ISLAND UTILITIES :
CORPORATION -- THE MORATORIUM : DOCKET NO. 2969
ON NEW CONNECTIONS FOR WATER :
SERVICE :

ORDER

This matter comes before the Public Utilities Commission (“Commission”) in connection with Order No. 16261 (issued May 24, 2000), in which the Commission approved a Stipulation dated March 2, 2000 (“Stipulation”), between the Prudence Island Utilities Corporation (“PIUC”) and the Division of Public Utilities and Carriers (“Division”), concerning PIUC’s moratorium on hooking up new customers to its water system. Exhibit A to the Stipulation set forth a Schedule of Projects, requiring PIUC to make specified infrastructure improvements to permit additional customers to be added to the water system.

On July 18, 2001, the PIUC and the Division filed a Settlement Agreement and Joint Petition to Amend Order No. 16261, recommending that the Commission approve a *Revised Schedule* for Improvements for Supplementing Potable Water Storage Capacity (“Project I”) and Improving the Narragansett Avenue Water Lines (“Project II”)¹. As grounds for amending the original Schedule of Projects, the Settlement pointed out that Project I is approximately six months behind schedule and that, instead of the installation of four, used glass-lined tanks as originally planned, Project I has been changed to consist of the construction of a single new water storage tank. The Settlement also indicated that

¹ The Settlement Agreement and Joint Petition to Amend filed on July 18, 2001 are attached as Appendix A hereto. *The Revised Schedule of Projects* is attached as “Exhibit A” to the Settlement Agreement.

additional time is needed to complete Project II, because PIUC desires to undertake and finance Project II internally over a three-year period in order to save labor costs.

The parties expressed their belief that it was not necessary for the Commission to conduct a hearing in this matter. Upon inquiry as to whether PIUC had complied with certain deadlines which have already passed under the Revised Schedule of Projects, PIUC advised counsel for the Commission that PIUC is currently in compliance with the Revised Schedule.

At an open meeting held on August 23, 2001, the Commission considered the evidence presented in the parties' joint filings and concluded that it was in the interest of PIUC's ratepayers to approve the Revised Schedule of Projects as set forth in "Exhibit A" to the Settlement Agreement filed on July 18, 2001, and to amend Commission Order No. 16261 accordingly.

Accordingly, it is

(16713) ORDERED:

1. The Revised Schedule of Projects attached as "Exhibit A" to the Settlement Agreement filed on July 18, 2001, is hereby approved.
2. The Joint Petition to Amend Order No. 16261 (issued May 24, 2000) in accordance with the terms of the Settlement Agreement filed on July 18, 2001, is hereby granted.
3. Except as modified herein, Order No. 16261 shall remain in full force and effect, and PIUC shall continue to comply with all findings and instructions contained therein.

EFFECTIVE AT WARWICK, RHODE ISLAND ON AUGUST 23, 2001, PURSUANT
TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED SEPTEMBER
10, 2001.

PUBLIC UTILITIES COMMISSION



*Elia Germani, Chairman

Kate F. Racine
Kate F. Racine, Commissioner

Brenda K. Gaynor
Brenda K. Gaynor, Commissioner

*Chairman Germani did not participate in the open meeting decision.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PUBLIC UTILITIES COMMISSION

PRUDENCE ISLAND UTILITIES CORPORATION)

) DOCKET NO. 2969
)

JOINT PETITION TO AMEND

The Prudence Island Utility Corporation (the "PIUC") and the Division of Public Utilities and Carriers (the "Division" and referred to collectively with the PIUC as the "Parties") jointly request the Public Utilities Commission to amend Order 16261 effective March 9, 2000 in the above docket.

The Parties submit an executed Settlement Agreement that resolves the issues raised by their Joint Petition to Amend. Due to the expense involved, the resources of the PIUC, and the nature of the petition (an amendment of the prior schedule contained Order 16261) the Parties do not believe that it is necessary for the Commission to conduct a hearing in this matter. Of course, whether a hearing is necessary is entirely within the purview of the Commission.

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Dated: July 17, 2001

DIVISION OF PUBLIC UTILITIES AND CARRIERS
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2. The PIUC did consider hardship requests that were received by the utility pursuant to Paragraph 8 of the Stipulation.

3. The Division has reviewed all but one decision of the PIUC to determine whether the facts of each case were covered by the definition of “undue hardship” as set forth in the Stipulation.¹

4. The PIUC also investigated the possibility of rehabilitating the DeWitt Well and the Army Well. To that end, the PIUC retained a consultant, Daniel W. Urish PhD., who concluded that the DeWitt well has little potential for increased yield. He also concluded that further evaluation of the Army Well might be warranted. Despite Dr. Urish’s conclusion regarding the Army Well, the PIUC believed that the benefit to be gained by expending further sums of money to investigate improving the Army Well’s yield were outweighed by the cost of the proposed investigation. The Division concurred with the utility’s conclusion.

5. Also, the PIUC has provided the Division with “quarterly reports” updating the Division as to the utility’s progress in complying with the Schedule for the completion of the following two capital improvement projects: Project I (Improvements for Supplementing Potable Water Storage Capacity) and Project II (Improving the Narragansett Water Lines).

6. In an effort to comply with the Schedule by May 31, 2000, the PIUC did investigate and locate four used, glass-lined storage tanks that the utility believed could

¹ The individual who the parties agreed had presented an “undue hardship” case, Timothy Curry, was connected to the PIUC’s system during the summer of 2000. Another individual, Raymond Branco, who potentially qualified for the exception, never pursued his request for “undue hardship” relief. A third individual’s hardship claim, that of Jame W. Nye, is still pending.

provide the requisite storage capacity at a reasonable cost. The PIUC, then, requested a two-week extension in order to obtain additional information regarding the four tanks. Ultimately, however, the utility did not prepare and submit a permit application to the Department of Health (“DOH”).

7. The PIUC’s reluctance to file a permit application with DOH stemmed principally from the utility’s inability to secure a letter from DOH stating the specific conditions under which the tanks would satisfy the DOH application process. DOH forwarded the desired letter to the PIUC on or about September 11, 2000; however, by that time, the tanks had been sold to another purchaser.

Project I

8. Between September 11, 2000 and the present date, the PIUC has continued to search for glass-lined tanks similar to those that were sold, to no avail.

9. Project I is approximately six months behind schedule.

10. Both the Division and the PIUC now believe that it is unlikely that the PIUC will be able to locate, obtain approval, finance, and install, glass-lined tanks similar to those that the PIUC had located last summer.

11. Instead of utilizing four used, glass-lined tanks, the PIUC has indicated that it intends to construct a single 100,000 gallon, steel bolted storage tank, which is also glass-lined.

12. The PIUC has indicated that the utility is currently in the process of making arrangements to obtain ownership of property (via a donation or otherwise) where the tank will be located. The property is now the site of the so-called Greer Tank and use thereof to date has been by license or by prescriptive right. This property is located at

such an elevation as to permit the tank to function without the necessity of constructing a pump station.

13. Alternatively, in the event that the PIUC is unable to obtain ownership of the aforesaid property, the PIUC has indicated that it will construct the tank on less elevated property that the utility currently owns, and that it will design and construct the required pump station.

14. The PIUC acknowledges that it will be filing a rate case in order to obtain in rates funds sufficient to service the debt necessary for the construction of the 100,000 gallon storage tank.

Project II

15. In its report to the Division dated December 21, 2000, the PIUC stated that Project II is in the "planning stage" and the company expects to complete the project in a "3 to 5 year timeframe."

16. The proposed extension of the schedule established by Order 16261 arises because the PIUC desires to undertake and finance Project II internally over a three year time-period. By undertaking Project II in this manner, the PIUC believes it can save a substantial amount of money in labor costs.

17. The PIUC has indicated to the Division that it will commence Project II in 2001 but that it requires additional time in order to complete the project.

II. TERMS OF SETTLEMENT

1. With the approval of the Commission, the Schedule of Projects annexed to the Stipulation dated March 2, 2000 as Exhibit A and approved and incorporated in Order

16261 is amended in accordance with the Revised Schedule of Projects attached hereto and marked "Exhibit A."

2. The PIUC will promptly provide the Division with a written decision regarding the hardship request of James W. Nye dated October 18, 2000.

3. All other terms and conditions contained in Order 16261 and the Stipulation incorporated therein and annexed thereto remain in full force and effect.

III. EFFECT OF SETTLEMENT

1. 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.

2. 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.

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

Dated at Providence this 17th day of July, 2001.

PRUDENCE ISLAND UTILITY

DIVISION OF PUBLIC UTILITIES

By its attorneys,

By its attorneys,



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“EXHIBIT A”

REVISED SCHEDULE OF PROJECTS

PROJECT I – IMPROVEMENTS FOR SUPPLEMENTATING POTABLE WATER STORAGE CAPACITY

<u>Phase of Project</u>	<u>Completion Date</u>
Determine tank location	June 30, 2001
File rate application with Commission to finance debt service for construction of the storage tank	August 15, 2001
Obtain ownership or use of property for location of storage tank	September 1, 2001
Bid specification and bidding	March 15, 2002
Tank construction commences	May 1, 2002
Tank construction completed	September 15, 2002
Testing, startup and training completed	September 30, 2002
Tank fully functioning	March 31, 2003

PROJECT II – IMPROVING THE NARRAGANSETT AVENUE WATER LINES

<u>Phase of Project</u>	<u>Completion Date</u>
To be performed in-house and financed internally	
Line installation and appurtenant construction commences	May, 2001
1/3 completed by	October 31, 2001
1/3 completed by	October 31, 2002
1/3 completed by	October 31, 2003