

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PRUDENCE ISLAND UTILITY :
CORPORATION GENERAL RATE FILING : DOCKET NO. 3390

ORDER

I. Introduction

On August 15, 2001, the Prudence Island Utilities Corporation (“PIUC”) submitted an application with the Rhode Island Public Utilities Commission (“Commission”) seeking a general increase in its existing rate schedules, effective November 1, 2001. On September 28, 2001, the PIUC supplemented its filing with additional required documentation and the application was accepted by the clerk. The rate increase was suspended by the Commission at an open meeting on October 25, 2001.

The PIUC’s rate filing was designed to generate total revenue in the amount of \$164,970. This request, if granted, would have increased the PIUC’s current annual revenues by \$49,347, or by 42.7%, and would have increased annual rates by \$141 per connection, or by 42.9%.

The instant rate filing represents the PIUC’s fourth rate increase filing in the last fifteen years. The following table provides a brief history:

Docket No.	Filing Date	Increase Requested	Increase Allowed	Authorized Revenues
1853	6-23-86	\$10,550	\$12,870	\$35,670
1927	12-5-88	Emergency Funds		\$76,620
2433	6-17-96	\$45,630	\$16,243	\$115,382
3390	9-28-01	\$49,347		

II. PIUC's Direct Case

In support of its filing, PIUC submitted the pre-filed testimony of Mark Kimball,¹ President and member of the Board of Directors and Roger M. Dufour,² a certified public accountant.

Mr. Kimball explained that the need for the increase in rates arose as a result of a general inflationary rise in operational expenses since the last increase in 1996 in addition to the fact that PIUC has commenced two significant capital improvement projects (CIP) pursuant to Commission Order 16261.³ Mr. Kimball testified that the first CIP is the purchase and construction of a storage tank designed to supplement PIUC's water storage capacity. He estimated the cost of this project to be \$250,000. He anticipated PIUC would finance the project through the Rhode Island Clean Water Financing Agency and the State Revolving Loan Fund. He indicated that the terms of the financing called for repayment of the principal and interest over 20 years at a 3% interest rate.⁴

The second CIP was a continuation of the repair and improvement of the Narragansett Avenue water lines, pursuant to the schedule approved by the Commission in Docket No. 2969.⁵ The financing for this project would come from PIUC's operating revenues.

Mr. Dufour testified in favor of the rate increase due to general inflationary increases and the engineering, legal and accounting expenses associated with the completion of the CIPs.⁶ Mr. Dufour testified that he had prepared schedules to reflect adjustments made to the test year expenses. The following represents a summary of the

¹ PIUC Ex. 1A, Direct Testimony of Mark Kimball.

² PIUC Ex. 1B, Direct Testimony of Roger M. Dufour.

³ PIUC Ex. 1A, p.3; See Order No. 16261 (issued May 24, 2000).

⁴ Id. at 3-4.

significant pro forma increases from the test year January 1, 2000 through December 31, 2000. PIUC anticipates needing \$16,638 to pay the interest and principal on the \$250,000 loan. This represents a \$16,638 increase over the test year. PIUC has calculated a return on investment to shareholders of \$4,800. This represents a \$4,800 increase over the test year. PIUC has calculated an increase in property taxes of \$6,001, of which \$5,703 is attributable to the new storage tank. PIUC also estimates that electric rates will increase by \$3,846 once the new storage tank is operational. PIUC estimates that professional fees and rate case fees will increase by \$4,408, to a level of \$14,940. PIUC is also seeking an inflationary increase of 5% for several types of expenses due to the fact that fees for materials and services have risen and its three employees have not received increases in pay since 1997.⁷ The impact to employees would be a raise of 10% from the test year to the rate year.

III. Public Comment

Following public notice and by agreement of the parties, the Commission conducted a public hearing on December 14, 2001 at the Bristol Town Hall for purposes of taking public comment. Seven members of the public testified. The majority of the comments focused on the quality of the water. However, commenters also discussed the quantity of water available, the feasibility of a smaller rate increase for the sole purpose of paying for the new storage tank, the feasibility of PIUC becoming a water district, and whether new customers should be added to the system.⁸ One member of the PIUC board

⁵ PIUC Ex. 1A, p. 3; See Order No. 16713 (issued September 10, 2001).

⁶ PIUC Ex. 1B, p. 3.

⁷ Id. at 3-4 and attachments.

⁸ See Tr. 12/4/01.

testified that PIUC had voted to lift the moratorium on new customer hook-ups that had been approved by the Commission in Docket No. 2969.⁹

IV. Settlement

On December 21, 2001, the PIUC and the Division of Public Utilities and Carriers (“Division”) filed a Settlement Agreement (“Settlement”) with the Commission which, if approved, would increase annual rates by 29%, from \$329 to \$425 per connection, for effect January 1, 2002.¹⁰ This Settlement, if approved, would allow the PIUC to collect additional annual revenues of approximately \$33,600.¹¹

Under the Settlement, the additional revenues would principally be utilized by the PIUC to service approximately \$250,000 of anticipated debt to be financed through the Rhode Island Clean Water Financing Agency and the State Revolving Loan Fund, as well as to fund in-house repair and improvement of the Narragansett Avenue water lines, expected to cost approximately \$100,000 over two to three years.¹² The proceeds from the State Revolving Loan Fund borrowing would be used for the construction of a new water storage tank.¹³

The Settlement included a decrease of \$3,757 to PIUC’s electricity claim, reflecting a decrease approved in Docket No. 3402.¹⁴ The Settlement allowed PIUC’s adjustment for inflation and its claim for property taxes. In addition, under the Settlement, PIUC will pay off \$50,000 of outstanding debenture notes which carry a 10% interest rate. This will result in a decrease of \$11,000 to PIUC’s claim for interest

⁹ See Order No. 16261 (issued May 24, 2000).

¹⁰ Joint Ex. 1. A copy of the Settlement is attached as Appendix A.

¹¹ Id. at 1-2.

¹² Tr. 1/9/02, p. 104.

¹³ Joint Ex. 1, p. 2.

¹⁴ Id.; See Order No. 16956 (issued February 15, 2002).

expense and funding of the bond sinking fund.¹⁵ Finally, the Settlement will allow PIUC a 7% return on equity.¹⁶

V. Hearing

Following due notice, a public evidentiary hearing was conducted at the Commission's offices at 89 Jefferson Boulevard, Warwick, Rhode Island on January 9, 2002. The following appearances were entered:

FOR PIUC:	Ralph M. Kinder, Esq.
FOR DIVISION:	Leo Wold, Esq. Special Assistant Attorney General
FOR COMMISSION:	Cynthia G. Wilson, Esq. Senior Legal Counsel

A. Settlement

Mr. Mark Kimball, Mr. Roger Dufour, and Mr. John Bell, Division Rate Analyst, all testified in favor of the Settlement. The witnesses agreed that the storage tank project, the Narragansett Avenue project and the salary increases would all be fully funded by the proposed rate increase.¹⁷

In his opening statement, Mr. Kinder explained that if PIUC were to pay off its \$50,000 debenture notes, currently at a 10% interest rate, it anticipated saving \$11,000 per year in principal and interest payments. Mr. Kinder further explained that under the terms of the loan agreement for the storage tank project, PIUC would not have to pay any interest or principal on the loan until the project is completed in 2003. However, PIUC would be collecting debt service for the loan in rates prior to 2003. Therefore, using those debt service revenues and money from the bond sinking fund, PIUC would be able

¹⁵ Joint Ex. 1, pp. 2-3.

¹⁶ Id. at 3.

to pay off the high interest debenture notes.¹⁸ Mr. Dufour and Mr. Kimball clarified that in addition to those funding sources, PIUC would have funds available from its lower interest line of credit and from allowances for insurance and property tax increases that would not be due until late 2002.¹⁹

The parties testified that they expected the proposed rates to remain effective for five years. However, Mr. Gene Rinker, PIUC's treatment operator, testified that he expected to be leaving his position effective June 2002. Mr. Rinker testified that the national average salary for a Level 1 Treatment Operator is \$30,000 per year, or the equivalent of \$14.50 per hour. However, Mr. Rinker lives on the Island, works part time and does not receive any benefits. Therefore, it is unclear whether PIUC would have funds sufficient to pay a new operator if Mr. Rinker does leave his position.²⁰

B. Status of the Tank Project

Mr. Kimball testified that PIUC had identified the site for the new storage tank and was in the process of negotiating a lease agreement with the owner, Prudence Conservancy. Mr. Kimball expected the annual lease payment to be \$1,000.²¹ In addition, he advised the Commission that PIUC had received a bid for construction by R.P. Iannuccillo that had to be accepted by February 15, 2002. He conceded that the bid plus associated fees would be in excess of the \$250,000 allowed and that the excess costs could only be funded from current revenues.²² Mr. Bell testified that the Division was aware that the amount allowed for the project might not be equal to that actually expended. However, it was the Division's position that PIUC would have sufficient

¹⁷ Tr. 1/9/02, pp. 100-08.

¹⁸ Id. at 9-10.

¹⁹ Id. at 16-18.

²⁰ Id. at 37-40.

funds to pay for the new storage tank because additional funding would be available from PIUC's line of credit or from reinvesting the allowed 7% return on equity.²³

Addressing the financing for the new storage tank project, Mr. Kimball explained the application process for receiving funding under the State Revolving Loan Fund. Mr. Kimball stated that PIUC had already filled out an application for a \$250,000 loan, had an Environmental Impact Statement performed, received approval from the Department of Environmental Management, and had been approved for funding. The next step was for PIUC to receive approval from the PUC of a rate structure that would cover payback of the loan. At that point, PIUC would be in the position of accepting the R.P. Iannuccillo bid. Funds would be disbursed directly to R.P. Iannuccillo by the financing agency on an ongoing basis during the construction period, with repayment of the loan starting when the project is completed.²⁴

C. Water District

In addition to public comment provided by Mr. Robert Garlick in Bristol and at the January 9, 2002 hearing regarding the feasibility of PIUC becoming a water district, the parties provided testimony. According to Mr. Kimball, PIUC had authorized Atlantic States Raw Water Association to study the feasibility and advantages versus disadvantages of PIUC becoming a water district. He indicated that the results of the study had been favorable. In addition, one member of the Board had met with the General Manager and Chief Engineer for the Portsmouth Water and Fire District. PIUC

²¹ Id. at 19-20.

²² Id. at 19-21.

²³ Id. at 21-23.

²⁴ Id. at 58-9. Because the Iannuccillo bid was only open until February 15, 2002 and funding was required in order to enter into the contract, the Commission issued Order No. 16899 (issued January 29, 2002) for the purpose of approving the rate structure to enable PIUC to enter into the necessary agreements for the storage tank project and to pay down the \$50,000 debenture note.

had requested Portsmouth to consider taking responsibility for the PIUC water supply. PIUC had received no reply from Portsmouth as of the date of the hearing.²⁵

Mr. Kimball explained that if PIUC were to become a water district, because of the median income of the Island's residents, PIUC would be eligible for grants amounting to 25-40% of borrowed money. This would allow PIUC to pursue capital improvements with less impact on rates. However, before this course of action could be pursued, both PIUC shareholder approval and legislative action would be necessary.²⁶

With regard to this issue, the Division, through Mr. Wold, indicated that it had not played an active role in what it believed to be a matter of PIUC shareholder prerogative. However, the Division indicated that it would be willing to provide PIUC with assistance, if requested.²⁷

D. Water Hookup Moratorium

One issue raised by public comment was a vote by PIUC's Board of Directors on November 25, 2001 to lift the moratorium on new hookups to the PIUC water system that was approved by the Commission in Docket No. 2969.²⁸

Mr. Kimball acknowledged that, despite his position that the system was still unable to handle new hook-ups, the Board of Directors had voted to lift the moratorium.²⁹ Mr. Rinker testified that he agreed the system could not handle the increased demand that new connections would impose on the system.³⁰ However, both witnesses testified that as of the date of the hearing, despite the Board's vote, no new customers had been

²⁵ Id. at 40, 52.

²⁶ Id. at 40-1.

²⁷ Id. at 46-8.

²⁸ Tr. 12/4/02, pp. 52-6. See Order No. 16261 (issued May 24, 2000).

²⁹ Tr. 1/9/02, pp. 63-4.

³⁰ Id. at 64-5.

connected to the system. Therefore, PIUC was still in compliance with the Commission Order.³¹

During the course of testimony on this issue, Mr. Jack Barrett, another Board member, testified that it was his understanding that the November 25, 2001 vote was open to further discussion.³² However, the minutes did not reflect such a position and Mr. Kimball and Mr. Rinker did not remember the vote in the same way as Mr. Barrett.³³

Because there appeared to be confusion regarding the issue of the Board's November 25, 2001 vote regarding the moratorium and Mr. Kimball testified that the issue was on the agenda for the January 2002 meeting of the Board, the Commission made clear that the terms of Commission Order No. 16261 control. Mr. Kimball, Mr. Rinker and Mr. Barrett all testified that they would discuss the Order at the January Board Meeting and clarify the Board's position on the moratorium issue. In addition, PIUC agreed to file its January Board Minutes with the Commission in order to afford the Commission the opportunity to ensure PIUC's compliance with its prior Order.³⁴

VI. Commission Findings

At an open meeting, conducted on January 11, 2002, the Commission considered the evidence presented in the case and found that the Settlement was just and reasonable and in the best interest of the ratepayers. In particular, the Commission approved the revenue increase of \$33,552, or 29%, for a total cost of service of \$149,224.

The Commission urges PIUC to continue to pursue the possibility of becoming a

determination by PIUC's shareholders. However, we are concerned that PIUC ratepayers will be subject to continuing rate increases to pay for necessary CIP projects while PIUC shareholders hold the keys to an option that could save ratepayer dollars. The testimony indicates that if PIUC becomes a water district, it will be eligible for significant grant money, which produces substantial savings for ratepayers over loans and other forms of indebtedness, the funding for which must be recovered in rates. Therefore, given the information currently before the Commission, the Commission believes that the conversion of PIUC to a water district would be in the best interest of the PIUC's ratepayers. The Division has indicated that it would be willing to assist PIUC in pursuing such a course of action, and the Commission urges PIUC to seek assistance from its legislators as well as the Division.

With regard to the vote by the Board of Directors to lift the moratorium on new hook-ups, the Commission reminds PIUC of the mandate of its Order in Docket No. 2969. In that Order, the Commission approved a moratorium on new hook-ups with an exception for undue hardship cases. The Commission also indicated that it will revisit the moratorium issue when the Narragansett Line Project and the Storage Tank Project are completed. The testimony from Mr. Kimball and Mr. Rinker shows that water quantity has not improved since May 2000. Therefore, it would be premature for the Commission to revisit the moratorium issue in this Docket.

While the Board's vote to lift the moratorium was contrary to the Commission's Order, the testimony shows that the PIUC had not actually violated the terms of the Order, as no new connections have been installed by PIUC in violation of the

³⁴ Id. at 77-83, 94-5. PIUC did file its January 2002 Board Minutes which reflected the fact that PIUC had, indeed, voted to lift the moratorium rather than voting to discuss it further. The PIUC Board did not retract

moratorium. Accordingly, the Commission will take no action with regard to the Board's vote. The Commission does, however, caution PIUC against acting in a manner contrary to an effective Commission Order.

Finally, the Commission is concerned by the fact that Mr. Rinker has given his notice. From all accounts, Mr. Rinker has been an excellent employee of PIUC, acting in the best interests of the customers, all of whom are his neighbors. Mr. Rinker testified that the driving forces behind his decision were a concern PIUC was not moving toward becoming a water district and, more importantly, that the Board had voted to lift the moratorium, despite a lack of improvement in water quantity. The Commission hopes that Mr. Rinker will reconsider, given the fact that the moratorium is still in place. However, in the event Mr. Rinker does decide to leave, the Commission is confident that PIUC will act with all due diligence to find a qualified replacement.³⁵

Accordingly, it is

(17025) ORDERED:

1. The general rate increase filed by the Prudence Island Utility Corporation on August 15, 2001 and supplemented on September 28, 2001 is hereby denied and dismissed.
2. The Settlement Agreement filed by the Prudence Island Utility Corporation and the Division of Public Utilities and Carriers on December 21, 2001 is hereby approved.
3. As provided in the Settlement Agreement, the Prudence Island Utility Corporation is authorized to bill customers at the rate of \$425 per connection, for effect commencing with the January 2002 billings.

its vote, but did vote to present a case to the Commission for lifting the moratorium.

³⁵ As of the issue date of this Order, we understand that Mr. Rinker is still employed by PIUC.

4. The Prudence Island Utility Corporation shall comply with all other terms and conditions imposed by the Settlement Agreement and by this Report and Order.

EFFECTIVE AT WARWICK, RHODE ISLAND PURSUANT TO AN OPEN MEETING DECISION ON JANUARY 11, 2002. WRITTEN ORDER ISSUED JUNE 7, 2002.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman

Kate F. Racine, Commissioner

Brenda K. Gaynor, Commissioner