

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: PAWTUCKET WATER SUPPLY :
BOARD GENERAL RATE FILING : DOCKET NO. 3164

REPORT AND ORDER

I. Introduction

On June 30, 2000, the Pawtucket Water Supply Board (“PWSB”), a municipal, non-investor owned utility, filed with the Public Utilities Commission (“Commission”) an application for an increase in revenues of \$2,289,601, or 28.2%, for a total revenue requirement of \$10,396,841. The impact of the rate proposal would result in a 29.8% increase across-the-board on all rate classes.¹ An effective date of August 1, 2000 for the rate increase was requested. On July 13, 2000, the Commission suspended the effective date of the original filing for a period of six months.

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

<u>Docket No.</u>	<u>Filing Date</u>	<u>Amount Requested</u>	<u>Amount Allowed</u>
1989	11/2/90	\$2,025,617	\$1,247,185
2158	12/7/93	\$1,460,486	\$ 624,876
2674	1/9/98	\$3,634,020	\$ 614,430

¹ The PWSB also moved for interim relief, pursuant to R.I.G.L. § 39-1-32 and § 1.17 of the Commission’s Rules of Practice and Procedure. At an open meeting on July 31, 2000, the Commission approved emergency interim rate relief for PWSB in the amount of \$788,000, effective August 1, 2000, and directed that this revenue increase be recovered through an equal percentage increase to all rate classes, with the exception of private fire service. See Order No. 16398, pp. 13-15.

II. PWSB

In support of this filing, PWSB filed the testimony of Pamela M. Callahan, P.E., its chief engineer and General Manager, and PWSB's consultants, Walter E. Edge, Jr., and David G. Bebyn, of Bacon & Edge, P.C. In her prefiled testimony, Ms. Callahan stated she was hired as General Manager in June 1999, and noted that the physical water system is very old because it included a 1938 state of the art treatment plant and a distribution system of large water mains installed in the late 1800's.² Ms. Callahan explained that the water treatment plant could not be renovated to meet building codes at a reasonable cost or to meet future water quality standards.³ Furthermore, Ms. Callahan had evaluated PWSB's distribution system and found that it needed substantial renovation and replacement.⁴ Since 1991, the PWSB has been performing a cleaning and lining program of the transmission mains through bonding performed by the Public Building Authority ("PBA").⁵ As a result, approximately 29 miles of transmission main has been completed with 143 miles of smaller water mains scheduled for cleaning and lining, or replacement at a rate of approximately 7 miles of main per year at an estimated cost of \$3,000,000 per year.⁶ Ms. Callahan noted that PWSB's storage capacity was inadequate to maintain

² PWSB Ex. 1 (Callahan Prefiled Testimony), p. 4.

³ Id., pp. 4-5.

⁴ Id., p. 5.

⁵ Id., p. 6.

⁶ Id.

sufficient pressure in the system, resulting in the need for continuous pumping to maintain system pressure.⁷ She stated that the problem of inadequate storage would not be solved with this filing.⁸ Ms. Callahan stated that the treatment plant, although in poor condition, is well managed and staffed.⁹ Engineering studies have stated the need for a new treatment plant, and new pumping and storage facilities at a cost of approximately \$60 million.¹⁰

In regards to PWSB's financial status, Ms. Callahan was troubled that PWSB's cash reserve was very low, which could impact the bond interest rate for the construction of the new treatment plant.¹¹ Other financial problems arose for PWSB, such as a bill from the Rhode Island Water Resources Board ("WRB") for \$313,674 to be paid over three years, resulting from a miscalculation of administrative fees on the Water Quality Protection Surcharge for the last 10 years.¹² In addition, PWSB owes the city of Central Falls several hundred thousand dollars in back payments under the Central Falls franchise fee contract, which is presently in litigation due to PWSB's cancellation of the contract.¹³ PWSB's cash reserves have been decreasing over the past three years and will be totally depleted by July 2000.¹⁴ Also, PWSB is projecting a

⁷ Id.

⁸ Id.

⁹ Id., p. 7.

¹⁰ Id., p.21.

¹¹ Id., p. 8.

¹² Id.

¹³ Id., p. 9.

¹⁴ Id., p. 10.

\$1,000,000 revenue shortfall in fiscal year 2000 resulting in an estimated \$400,000 loss for fiscal year 2000.¹⁵

Ms. Callahan attributed this revenue shortfall to a number of factors, including an agreement with the city of Pawtucket made in 1999, whereby the City's public hydrant charges were waived in exchange for property tax relief for PWSB, as well as a substantial reduction in demand by PWSB's largest wholesale customer, the town of Cumberland.¹⁶ The most significant reason for the revenue shortfall, she testified, is that the PWSB has not reached the consumption figures projected in the last rate order.¹⁷ Contributing to this revenue loss is the bankruptcy of two major customers, Crown Yarn and Elizabeth Webbing, representing combined annual revenues of approximately \$350,000, and the decrease in wholesale sales revenues by approximately 41%, which was exacerbated by the discovery of a meter error resulting in a credit of \$67,523 owed to the town of Cumberland.¹⁸

PWSB's poor financial status has resulted in insufficient funding for treatment plant maintenance, purchase of equipment for emergency repairs, and watershed and dam maintenance.¹⁹ In particular, Ms. Callahan noted that funding is needed for projects to be performed in 2000 in coordination with the city of Pawtucket's Department of Public

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id., pp. 10-11.

¹⁹ Id., p. 11.

Works' street repair schedule in order to reduce costs.²⁰ She also reported that the RI Department of Health has required capital maintenance improvements to PWSB's existing treatment plant and dam that are necessary to keep the plant operational until a new treatment plant is constructed.²¹ With regard to sources of funding, Ms. Callahan explained that although a \$10,000,000 bond issue was previously authorized by the residents of the city of Pawtucket, the PBA has agreed to issue only \$3,000,000 in debt financing due to a concern that the PWSB does not have sufficient revenues to pay the additional debt service.²² PWSB has recommended the issuance of two series of \$3,000,000 Bond Anticipation Notes ("BANS") in 2000 and 2001, respectively; the proceeds of which would be used to fund facility projects and PSWB's Infrastructure Replacement Program ("IFR Program").²³

Ms. Callahan also discussed various personnel problems at PWSB relating to absentism in the Transmission & Distribution ("T&D") Department, understaffing in the MIS Department, and turnover in the Financial Department.²⁴ She noted that at this time, however, PWSB is requesting authorization for only 65 positions and is not requesting any additional positions.²⁵ Ms. Callahan explained that positions such as Customer Service Manager, Meter Reader and T & D Supervisor are

²⁰ Id., p. 12.

²¹ Id., p. 12.

²² Id., p. 13.

²³ Id., p. 14.

²⁴ Id., pp. 17-18.

²⁵ Id., p. 18.

vacant due to restructuring plans and a lack of financial resources to support the positions.²⁶

Finally, Ms. Callahan noted that this filing does not include the costs of the new water treatment facility.²⁷ She concluded that this filing is only the first step in providing funds to properly operate and maintain PWSB's existing treatment plant and distribution system, and noted that Pawtucket residents are presently paying the second lowest water rates in Rhode Island.²⁸

Walter E. Edge, Jr., CPA, a consultant for PWSB, also submitted prefiled testimony. In the introduction to his prefiled testimony, Mr. Edge set forth many serious financial and cash flow deficits facing PWSB as a result of inadequate revenue generation and \$120,000,000 of capital and IFR needs.²⁹ Mr. Edge reviewed PWSB's revenue requirements for the rate year of August 1, 2000 to July 31, 2001.³⁰ The test year period of July 1998 to June 1999 had total revenues of \$8,048,258.³¹ Mr. Edge noted that in the test year PWSB received revenue from thirteen sources, the largest of which was metered sales revenue of \$5,656,945, representing 70.2% of the total revenue in the test year.³² In regards to metered sales, Mr. Edge explained that this revenue source includes

²⁶ Id., pp. 18-20.

²⁷ Id., p. 21.

²⁸ Id., pp. 22-23.

²⁹ PWSB Ex. 2 (Edge Prefiled Testimony), p. 2.

³⁰ Id., p. 5.

³¹ Id.

³² Id.

water consumption by residential, commercial, industrial and governmental customers.³³ Reviewing PWSB's revenue growth over the past seven years, Mr. Edge noted that there has been a loss in consumption sales since 1997, and he projected \$5,938,669 of metered sales revenue for the rate year.³⁴

The next revenue account addressed by Mr. Edge was the customer service charge, which is a fixed charge based upon meter size and accounts for 11.6% of PWSB's test year revenues. He noted that this amount does not fluctuate very much from year to year because of the relatively stable number of customers serviced by PWSB.³⁵ Mr. Edge determined that the test year level of revenue in this category was inflated because PWSB was in the process of catching up on its billings and had implemented a meter down-sizing program.³⁶

The third revenue source for PWSB is sales-for-resale, which are wholesale water sales, primarily to the town of Cumberland during peak demand periods.³⁷ Mr. Edge noted this revenue source has had extreme fluctuations from year to year depending on the amount of rainfall and the existence of water supply problems in Cumberland.³⁸ Also, as a result of recalibrating the wholesale meter for Cumberland, as well as an

³³ Id., p. 6.

³⁴ Id. Mr. Edge explained that although this amounts to a 5% increase over the test year metered sales revenues, he felt that the increase was due to "the full implementation of the last rate increase rather than any consumption increase." Id.

³⁵ Id., p. 7.

³⁶ Id.

³⁷ Id.

³⁸ Id.

increase in the credit to Cumberland on its wholesale bill for water wheeled through Cumberland's water system to PWSB customers in Cumberland, Mr. Edge testified that PWSB's wholesale revenues are estimated to decrease dramatically from \$508,809 in the test year to not more than \$310,000 in the rate year.³⁹

As for revenues from private and public fire protection service, Mr. Edge reviewed the previous five years of data and determined that private fire protection revenues have increased each year, while public fire revenue has remained relatively flat.⁴⁰ Finding that private fire revenues for 1999 and 2000 and the 5-year average of such revenues are nearly the same, Mr. Edge set the private fire revenues for the rate year at the 5-year average level of \$259,674.⁴¹ He noted that public fire protection revenues decreased in 1999 and 2000 because of the failure of the city of Pawtucket to pay PWSB for these services; he set public fire revenues for the rate year at the year 2000 level of \$286,390.⁴² The remaining revenue accounts represent less than 6% of PWSB's total test year revenues and were simply left at test year levels by Mr. Edge.⁴³ In conclusion, Mr. Edge projected total rate year revenues at current rates of \$8,107,240.⁴⁴

³⁹ Id., pp. 7-8.

⁴⁰ Id., p. 8.

⁴¹ Id.

⁴² Id., p. 9.

⁴³ Id.

⁴⁴ Id.

In regards to adjustments made to test year expenses, Mr. Edge focused on accounts that were obviously under-funded.⁴⁵ The expense accounts Mr. Edge adjusted include payroll and fringe benefits, chemicals, the amount due to the Water Resources Board, the amount due to Central Falls, the amount due to the city of Pawtucket, debt service payments, pay-as-you-go IFR expenses, regulatory commission expense, and property taxes.⁴⁶ Approximately 130 other expense accounts were left at test year levels by Mr. Edge.⁴⁷

As for payroll and fringe benefits, Mr. Edge estimated rate year increases of 4% for unionized employees, and projected rate year increases in health insurance and dental insurance to \$405,101 and \$38,364, respectively.⁴⁸ Mr. Edge next reviewed the non-PBA debt service payments and noted that principal payments would increase from the test year amount of \$258,074 to \$279,820 in the rate year, while interest would decrease from \$154,421 in the test year to \$129,908 in the rate year.⁴⁹ Regarding debt service for PBA financings and vehicle/equipment leases, Mr. Edge projected an increase from \$1,053,542 in the test year to \$1,145,077 in the rate year.⁵⁰ He explained that the major reason for this increase is the anticipated issuance by the PBA of new BAN financings totaling \$6,000,000 in 2000

⁴⁵ Id., p. 10.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id., pp. 11-12.

⁴⁹ Id., p. 13; see Schedules WEERY-9 and 10.

⁵⁰ Id., p.14; see Schedule WEERY-11.

and 2001, the proceeds of which will be used to fund PWSB's IFR and capital programs.⁵¹ Regarding the Central Falls franchise fees payable for water sold to PWSB customers in Central Falls, Mr. Edge stated that the franchise fee is 25% of metered sales, and he projected the test year level to be \$327,000.⁵² Also, Mr. Edge estimated rate case expenses to be \$150,000, to be amortized over three years, and regulatory commission expenses to be \$17,000.⁵³ Mr. Edge made no adjustment to the test year level of municipal charges for expenses incurred on behalf of PWSB by the city of Pawtucket because the charge has remained fairly constant at \$110,000 per year.⁵⁴

With regard to property taxes, Mr. Edge noted that property taxes have increased each year since the last docket, and determined the property tax amount to be \$551,979 for the rate year.⁵⁵ Due to a change in chemicals used and price increases from the vendors, Mr. Edge estimated that the chemical expense would increase from \$265,283 for the test year to \$319,469 (including GAC replacement charges) for the rate year.⁵⁶ As for IFR funding, Mr. Edge requested a rate year amount of \$900,000, which is consistent with the IFR Plan approved by the RI Department of Health in 1996 and filed with the Division and the

⁵¹ Id., p. 14.

⁵² Id., p. 14.

⁵³ Id., p. 15.

⁵⁴ Id. Mr. Edge also noted that PWSB is in the process of amending its IFR Plan, and expects to request an increase in the IFR allowance to \$3 million per year in future filings. Id.

⁵⁵ Id., pp. 15-16.

⁵⁶ Id., p. 16.

Commission, and supported by the prefiled testimony of Ms. Callahan.⁵⁷ In conclusion, Mr. Edge emphasized PWSB's need for an allowance in rates to permit repayment of the amounts owed to Central Falls and the Water Resources Board.⁵⁸ The filing requests \$227,309 for the Central Falls balance and \$217,831 for the amount due the WRB.⁵⁹

David G. Bebyn, CPA, also a member of Mr. Edge's accounting firm, filed testimony and schedules to support normalization adjustments to the test year period ending June 30, 1999. His adjustments reflected the: (1) removal of depreciation expenses; (2) inclusion of debt service and lease payments; (3) inclusion of full billing for public hydrant fees; (4) addition of capitalized labor and expense amounts; and (5) removal of non-recurring expenses for the sediment basin.

III. DIVISION

In response to PWSB's filing, the Division of Public Utilities and Carriers ("Division") submitted prefiled testimony of its outside consultant, Andrea C. Crane, and Alberico Mancini, an engineering specialist employed by the Division. The general purpose of Ms. Crane's testimony was to review PWSB's general rate filing and make revenue requirement recommendations.⁶⁰ PWSB requested a revenue increase of

⁵⁷ Id.

⁵⁸ Id.

⁵⁹ Id.

⁶⁰ Division Ex. 5 (Crane Prefiled Testimony), p. 5.

\$2,289,600, but Ms. Crane instead recommended an increase of only \$1,820,779, for a total revenue requirement of \$10,050,085, including the revenue increase of \$788,000 recently awarded to PWSB on an emergency interim basis.⁶¹

As to pro forma metered sales revenue, also referred to as water consumption revenues, Ms. Crane did not recommend any adjustment to PWSB's calculation of metered sales in this case, but urged PWSB in the future to base its pro forma revenue claims on a normalized level of consumption utilizing PWSB's new billing system.⁶² In the area of sales-for-resale (or wholesale) revenues, Ms. Crane recommended an increase in PWSB's billable consumption projection from 397,106 hundred cubic feet ("HCF") to 552,820 HCF, resulting in additional rate year wholesale revenues of \$120,881.⁶³ She calculated this amount by taking the actual sales-for-resale amount for the test year *less* an adjustment of 15% to reflect recalibration of the Cumberland meter and a small adjustment for the wheeling credit associated with PWSB's customers in the Terrace section of Cumberland.⁶⁴ Regarding state surcharge revenue, Ms. Crane recommended an increase in that portion of the surcharge retained by PWSB corresponding to Ms. Crane's recommended increase in total sales-for-resale for the rate year.⁶⁵ As for public fire protection revenues,

⁶¹ Id., pp. 7-8.

⁶² Id., pp. 11-12.

⁶³ Id., p. 14.

⁶⁴ Id.

⁶⁵ Id., pp. 14-15.

Ms. Crane made no adjustments but pointed out that in 1999, PWSB inappropriately entered into an agreement with the city of Pawtucket under which the City was permanently relieved of paying over \$200,000 in annual public hydrant charges in exchange for \$33,700 of property tax relief granted to PWSB.⁶⁶ As a result, the City has failed to pay public hydrant charges to PWSB for the past two years.⁶⁷ Ms. Crane recommended that the PWSB and the city of Pawtucket negotiate a reasonable payment schedule and submit this plan to the Division for approval.⁶⁸

On the subject of salaries and wages, Ms. Crane recommended a reduction of \$69,761 from PWSB's proposed salary and wage claims, because she reduced the number of vacant positions from seven to five for which PWSB will receive funding.⁶⁹ In addition, Ms. Crane made a reduction of \$5,337 in payroll taxes and \$907 in pension expenses and \$13,645 in health benefit costs to correspond to her reduction in salaries and wage claims.⁷⁰

In regards to the WRB settlement, Ms. Crane determined that the \$217,831 owed to WRB as of May 30, 1999 should be amortized over three years instead of including the entire balance in PWSB's annual revenue requirement. This adjustment results in a reduction of

⁶⁶ Id., pp. 15-16. This "agreement" between affiliates was never submitted to the Division for approval as required by R.I.G.L. Sec. 39-3-28. Id., p. 16.

⁶⁷ Id., pp. 16-17.

⁶⁸ Id.

⁶⁹ Id., p. 19.

⁷⁰ Id., pp. 19-20.

\$113,275 in PWSB's filed revenue requirement.⁷¹ With regard to the issue of the franchise fee payments to Central Falls, Ms. Crane testified that for purposes of determining the revenue requirement in this case, she included the full amount of the ongoing annual franchise fee payment to Central Falls of \$327,000, even though PWSB has indicated that it intends to terminate the contract with Central Falls, because of the pending litigation of this matter.⁷² In addition, recognizing that past due franchise fees might never be paid; Ms. Crane recommended a five-year, instead of two-year, amortization of the \$454,618 owed in back franchise fee payments to Central Falls. She further recommended that funds collected in rates for these payments, as well as funds for ongoing franchise fee payments, be placed in a restricted account and not be released without Division approval.⁷³ Ms. Crane's recommended amortization of past due franchise fees produces an annual amortization of \$90,924, and results in a reduction of \$136,385 in PWSB's filed revenue requirement.⁷⁴ Ms. Crane also urged the Commission to specify in its order that it considers PWSB to be fully compensated for the past costs related to back payments to WRB and Central Falls in the rates established in this case.⁷⁵ Furthermore, Ms. Crane stated that recovery in rates of the costs of past liabilities and mistakes by PWSB "comes

⁷¹ Id., p. 20-21.

⁷² Id., pp. 24-25

⁷³ Id.

⁷⁴ Id., p. 25.

⁷⁵ Id., p. 27.

close to constituting retroactive ratemaking,” and that generally, these costs would be borne by a company’s shareholders and not the ratepayers. Because PWSB is a non-investor owned utility, however, she would permit these particular past costs to be included in rates.⁷⁶

With regard to IFR Program funding, Ms. Crane noted that the Commission’s Order in Docket No. 2674 authorized PWSB to collect \$500,000 annually in rates for pay-as-you-go IFR project funding, and required PWSB to place these funds in a restricted account and report semi-annually thereon to the Commission.⁷⁷ PWSB conceded in data responses to the Division, however, that notwithstanding the Commission’s directives, PWSB did not fund any IFR projects with current rate revenues because of revenue shortfalls in 1998 and 1999. Consequently, Ms. Crane explained, no revenue was identified as IFR funding and no reports were filed with the Commission. Because the PWSB system is in immediate need of substantial improvements, she recommended that funds from current rate revenues be allocated for IFR use without being restricted to debt service,⁷⁸ and that the entire revenue requirement of \$900,000 in pay-as-you-go IFR funding requested by PWSB be approved.⁷⁹ However, she qualified this with a “strong recommendation” that long-term debt be utilized to finance PWSB’s IFR

⁷⁶ Id., p. 27.

⁷⁷ Id., pp. 28-29. See also Order No. 15664 (issued August 3, 1998), pp. 82, 90.

⁷⁸ Id.

⁷⁹ Id., p. 30

program. “In this manner,” she stated, “PWSB will have the flexibility to address immediate problems and the encouragement to obtain long-term debt.⁸⁰ In Ms. Crane’s opinion, capital costs are more appropriately funded by long-term debt than by current rate revenues. However, she was willing in the instant case to recommend that PWSB be given flexibility with regard to IFR funding, provided that PWSB management commits to comply with the Commission’s directives in Docket No. 2674 that PWSB fund the restricted IFR accounts and file the semi-annual reports required by the Commission.⁸¹

In regards to the operating reserve allowance, Ms. Crane noted that the Commission has traditionally allowed non-investor owned municipal water utilities to collect an operating reserve allowance of 1.5% of total expenses in order to mitigate cash flow problems and to provide for unforeseen expenditures or reduced revenue.⁸² In Docket No. 2158, however, the Commission reduced this operating reserve allowance from 1.5% to 1.0% due PWSB’s failure to comply with certain Commission requirements.⁸³ In Docket No. 2674, PWSB requested and was granted an operating reserve allowance of 1.5%.⁸⁴ Notwithstanding deficiencies in PWSB’s operations, Ms. Crane did not recommend any reduction in the 1.5% operating reserve allowance requested in this case.⁸⁵

⁸⁰ Id., p. 29.

⁸¹ Id., p. 30.

⁸² Id., p. 31, referring to the Commission’s Compliance Order in Docket No. 2198, p.9.

⁸³ Id., pp. 31-32.

⁸⁴ Id., p.32.

⁸⁵ Id.

In conclusion, Ms. Crane summarized her recommendations as follows⁸⁶:

- that PWSB's filed revenue requirement be reduced by \$468,800, from \$10,396,839 to \$10,050,085;
- that PWSB's rates be increased by \$1,820,799, or 22.1%, over present pro forma rate revenues of \$8,229,286;
- that the \$900,000 in IFR funding be retained in a restricted account and, to the extent possible, be used to fund debt service costs rather than to fund the IFR program on a pay-as-you-go basis; and
- that revenues received relating to prior and on-going Central Falls franchise fees be retained in a restricted account pending the outcome of litigation, and that PWSB be prohibited from claiming additional amounts for prior underpayments in future cases.⁸⁷

In his prefiled testimony, Mr. Mancini discussed PWSB's proposed IFR projects.⁸⁸ He stated that PWSB's treatment plant is in need of major rehabilitation and that the emergency repairs required by the RI Department of Health to this facility would require \$528,000.⁸⁹ Also, Mr. Mancini discussed the need to clean and line, or replace, the 143 miles of

⁸⁶ Id., pp. 5-6, 32-33.

⁸⁷ Id., pp. 6, 33.

⁸⁸ Division Ex. 2 (Mancini Prefiled Testimony), p. 2.

⁸⁹ Id., p. 3.

unlined cast iron mains in PWSB's distribution system to avoid customer complaints.⁹⁰ In conclusion, Mr. Mancini recommended that PWSB's annual debt service allowance be increased by \$180,000 to fund the interest on the anticipated \$3,000,000 BANS issue in 2000, and that IFR funding from current rate revenues be increased to \$900,000 per year with this funding expended through a specific restricted account.⁹¹

IV. OSRAM

On July 18, 2000, Osram Sylvania Products Inc. ("OSRAM") filed a motion to intervene, which was not opposed and thereby was automatically granted. In response to PWSB's filing, OSRAM submitted the prefiled testimony of its consultant, Gary D. Shambaugh, Executive Vice President of AUS Consultants-Utility Services. In his prefiled testimony, Mr. Shambaugh asserted that PWSB's interim, current and proposed rates for large industrial users such as OSRAM are excessive and discriminatory, and recommended that the current rates applicable to OSRAM approved in Docket No. 3164 not be increased.⁹² Mr. Shambaugh argued that most of the IFR expenditures by PWSB since 1988 were not related to providing service to OSRAM, in that some 79% of the distribution mains rehabilitated with IFR funds were located in the city of Pawtucket, and not in the city of Central Falls where OSRAM's

⁹⁰ Id., pp. 4-5.

⁹¹ Id., p. 5.

⁹² Shambaugh Prefiled Testimony, p. 3.

plant is located.⁹³ In addition, he pointed out that, of PWSB's requested revenue increase, \$1,387,216, or approximately 74%, is related to IFR programs and increases in distribution system costs.⁹⁴ OSRAM's current annual bill under rates established in Docket No. 3164 is \$331,851 and, based on the cost of service study filed by PWSB, amounts to an annual revenue subsidy for the remaining classes of customers of \$34,552.⁹⁵ Therefore, Mr. Shambaugh concludes, OSRAM's current rate is discriminatory.⁹⁶

Mr. Shambaugh stated that the rates proposed by PWSB in this filing would increase OSRAM's annual revenue requirement by 34%, and result in an increase in the existing inter-class subsidization. He calculated that if PWSB's full rate increase were to be granted, on a proportionate basis, the rates assigned to OSRAM should generate revenues of no more than \$366,302.⁹⁷ This amount, Mr. Shambaugh pointed out, is less than the \$367,027 in revenues generated from OSRAM under the interim rate increase previously granted to PWSB by the Commission on July 31, 2000.⁹⁸ Therefore, Mr. Shambaugh concluded, the rates approved by the Commission in Docket No. 3164, which currently generate revenues of \$331,851 from OSRAM, should remain in effect until a subsequent cost of service study addresses the

⁹³ Id., pp. 5-6.

⁹⁴ Id., p. 6.

⁹⁵ Id., p. 8, 10

⁹⁶ Id.

⁹⁷ Id., p. 10.

⁹⁸ Id., p. 10.

maximum hour usage of the large industrial customers, including OSRAM.⁹⁹

V. CENTRAL FALLS

On August 10, 2000, the city of Central Falls filed a motion to intervene, which was not opposed and therefore was automatically granted. In response to PWSB's filing, Central Falls submitted the prefiled testimony of Mr. Timothy Behan, an outside consultant. In his prefiled testimony, Mr. Behan discussed the value of the city of Central Falls' potable water distribution system.¹⁰⁰ Mr. Behan determined that in 1997, the replacement value of the Central Falls distribution system was \$9,747,450, and its depreciation (or current) value, was \$2,950,424.¹⁰¹

VI. PWSB REBUTTAL

In response to the Division's testimony, PWSB submitted the rebuttal testimony of Ms. Pamela (Callahan) Marchand on October 16, 2000.¹⁰² In regards to Ms. Crane's adjustment for salaries, wages and related benefits, Ms. Marchand explained that PWSB currently has 59 employees and six vacant positions, and that three of these vacancies have been posted and must be filled in order to comply with a collective bargaining agreement.¹⁰³ As for the remaining three vacancies, Ms.

⁹⁹ Id., p. 11.

¹⁰⁰ Behan Prefiled Testimony, p. 2.

¹⁰¹ Id., pp. 2-3.

¹⁰² In the course of this proceeding, Ms. Callahan was married and changed her surname to Marchand.

¹⁰³ Marchand Rebuttal Testimony, pp. 1-2.

Marchand emphasized PWSB's need for both a Management Information Systems ("MIS") Specialist to work with PWSB's computer software and a Project Engineer to commence work on the Accelerated Main Replacement Program.¹⁰⁴ The final vacancy was the position of Meter Reader, which was eliminated due to the use of PWSB's new automated meter reading system. Ms. Marchand requested authorization to use the savings from the elimination of this position to hire a Geographical Information Systems ("GIS") Technician. She stated that this position is necessary to develop mapping software for the distribution system critical to the main replacement program.¹⁰⁵ Finally, in regard to the issue of IFR funding, Ms. Marchand characterized Ms. Crane's recommendation that PWSB finance its IFR program with long-term debt as only "theoretical," pointing out that the Commission has allowed other utilities to fund IFR projects on a pay-as-you-go basis, and that this flexibility is necessary for PWSB, as well.¹⁰⁶

VII. SETTLEMENT AGREEMENT

Following notice, the Commission conducted hearings for the purpose of receiving public comment on the rate filing at Pawtucket City Hall on the evening of September 27, 2000 and at Central Falls City Hall on the evening of October 4, 2000. PWSB, the Division, OSRAM and Central Falls subsequently reached an agreement on PWSB's rate filing,

¹⁰⁴ Id., pp. 2-3.

¹⁰⁵ Id., p. 3.

¹⁰⁶ Id., pp. 3-4.

and on October 24, 2000 they filed a Settlement Agreement (“Settlement”)¹⁰⁷ with the Commission.

In the Settlement, the parties agreed to a total revenue requirement of \$10,050,085, requiring a revenue increase of \$1,820,799, or 22.1%. The parties agreed that the rate increase will be implemented “across the board” (i.e., through an equal percentage increase to all rate classes), with the exceptions that: (i) private fire will remain at the rate in place prior to the filing of this docket, and (ii) public fire rates will be increased by 33.2%. The Settlement also requires PWSB to establish an Extra Large Industrial class applicable to customers that have annual consumption of 300,000 HCF or greater, and to set the rate for this class at the levels established by the Commission in conjunction with the interim rate increase granted in this docket. In addition, PWSB will be allowed to fund the new Project Engineer position from IFR funds, and to fund the position of Geographical Information Systems Technician from available funds within the approved revenue increase. As to public hydrant charges, PWSB agreed to present to the Division an agreed upon plan as to how the city of Pawtucket will pay the public hydrant charges which were not collected in recent years. PWSB further agreed that, until this plan is approved, PWSB will not make any payments to the city of Pawtucket for municipal services, nor will PWSB make any payments

¹⁰⁷ A copy of the Settlement and related Revenue Requirement Summary is attached hereto as Appendix A and incorporated by reference herein.

if and so long as Pawtucket is in default under the plan. All amounts collected from the city of Pawtucket under the payment plan will be deposited into the restricted IFR account. Lastly, the Settlement authorizes PWSB to collect \$327,000 annually for ongoing franchise fee owed to the city of Central Falls from May 2000 forward. Funds collected for these prospective franchise fees are to be retained in a restricted account, pending resolution of the disputed contract and franchise fee issues, and no funds in this account are to be released without specific Commission approval.

A public hearing on the Settlement was conducted at the offices of the Commission, 100 Orange Street, Providence, Rhode Island, on October 24, 2000. The following appearances were entered:

FOR PWSB:	Francis X. Flaherty, Esq. Joseph A. Keough Jr., Esq.
FOR THE DIVISION:	Elizabeth Kelleher-Dwyer, Esq. Special Assistant Attorney General
FOR OSRAM:	Stephen Izzi, Esq.
FOR CENTRAL FALLS:	Carolyn Mannis, Esq.
FOR THE COMMISSION:	Steven Frias, Esq. Senior Legal Counsel

At the hearing, PWSB presented two witnesses: Ms. Marchand and Mr. Edge. Ms. Marchand clarified that the revenue increase of \$1,820,799 as outlined in the Settlement includes the revenue increase of \$788,000 approved by the Commission on an emergency interim basis

on July 31, 2000.¹⁰⁸ Ms. Marchand also explained that the new extra large rate class of customers utilizing at least 300,000 HCF annually, to be established under the Settlement, would apply only to OSRAM at this time.¹⁰⁹ Regarding public hydrant charges, counsel for PWSB noted that the outstanding balance of public hydrant fees owed by the city of Pawtucket is \$746,023. He stated that the city of Pawtucket has agreed to pay anticipated hydrant fees to PWSB of \$294,903 for fiscal year 2001, and to pay the remaining \$451,120 balance of past due hydrant fees to PWSB over a ten-year period, which corresponds to an annual payment of \$45,112.¹¹⁰

COMMISSION FINDINGS

At an open meeting conducted on October 26, 2000, the Commission considered the evidence presented and found that the proposed Settlement, with certain modifications, was just and reasonable and in the best interest of the ratepayers. In particular, the Commission approved the revenue increase of \$1,820,799, for a total cost of service of \$10,050,085. The Commission also concurred with the application of the rate increase “across the board,” with the exception of: (i) private fire service rates, which will not be increased, and (ii) public fire protection rates, which will be increased by 33.2%. In addition, the Commission agreed with the establishment by PWSB of an extra large industrial class

¹⁰⁸ T., 10/24/00, p. 10.

¹⁰⁹ Id., pp. 30-31.

¹¹⁰ Id., pp. 28-29; PWSB’s letter to Ms. Kelleher, the Division’s Counsel, dated 10/24/00.

whose rates shall be set at the levels established by the Commission in granting emergency interim rate relief to PWSB in July 2000. The Commission accepts the rate design proposals in the Settlement at this time, because a separate rate design docket (No. 3193) is currently pending before the Commission. In that docket, PWSB has filed a cost of service study and developed flat retail rates as ordered by the Commission in Docket No. 2674.

The Commission expressed its disapproval, however, of PWSB's failure to obtain Division approval of the "affiliate" contract with the city of Pawtucket, which purported to relinquish PWSB's right to receive public hydrant fee payments from the City in return for certain property tax relief. The Commission sternly warns PWSB to avoid entering into "affiliate" agreements without Division approval. In this docket, the Commission has also become aware that PWSB has failed to pay franchise fees owed to Central Falls in recent years and appropriate administrative fees to WRB, and has failed to ensure payment of public fire protection (hydrant) charges by the city of Pawtucket. Normally, the Commission would be reluctant to approve a revenue increase intended to remedy a utility's past errors by permitting recovery of unrecovered costs and revenues from prior periods. Due to the dire financial circumstances of PWSB and the fact it is a municipal, non-investor owned utility, however, the Commission has determined that it is in the interest of its ratepayers at this time to allow PWSB to include these past

expenses in its current revenue requirement. The Commission notes that PWSB's new General Manager, Ms. Marchand, is working diligently to address the utility's financial problems, and expects that PWSB will not again test the Commission's benevolence in this manner. Indeed, the Commission hereby advises that it considers PWSB to be fully compensated by the revenue increase approved in this docket for any and all past costs related to its failure to pay franchise fees owed to Central Falls or the debt owed to the WRB, as well as its failure to collect public hydrant fee revenues from the city of Pawtucket.

In addition to the terms provided for in the Settlement, the Commission also directs that funds for debt service/capital leases (\$2,492,471) and the IFR Program (\$900,000) be placed into restricted accounts, as was previously ordered in Docket No. 2674, and that these restricted accounts be fully funded in accordance with the agreed upon cost-of-service levels in this Docket.

The Commission also encourages PWSB and Central Falls to work toward a resolution of their dispute over the Central Falls' contract and franchise fee issues. Pending such resolution, PWSB is directed to collect funds for ongoing Central Falls franchise fees (\$327,000) from May 2000 forward. These funds are to be retained in a restricted account and shall not be released without prior Commission approval. PWSB shall file quarterly reports with the Commission on the status of

the contract, franchise fee and litigation issues with the city of Central Falls.

The Commission also directs that PWSB continue to report to the Commission on the restricted funds, as well as on the capital/IFR Program, on a semi-annual basis as provided in Order No. 15664. In addition, the Commission directs PWSB to file semi-annual reports accounting for the payments by the city of Pawtucket to PWSB for public hydrant fee charges and all payments PWSB makes to Central Falls for franchise fees owed prior to May 2000. Also, with respect to Paragraph 7 of the Settlement, the Commission directs PWSB to file with the Commission, as well as the Division, a repayment plan by which the city of Pawtucket will pay its public hydrant charges which were not collected between the last rate case and this docket. In regards to all its semi-annual reporting, PWSB is directed to file reports by September 30th and March 31st of each year. With the inclusion of the foregoing additional terms and reporting requirements, the Settlement was unanimously approved by the Commission.

In regards to use of IFR funds, PWSB has requested flexibility to use current revenues to fund pay-as-you-go capital/IFR costs and long-term debt service. In PWSB's last general rate case in 1998, the Commission provided \$500,000 in annual pay-as-you-go funding for IFR costs. At that time, the Commission stated that it was authorizing this amount of pay-as-you-go funding in PWSB's current rates so that it

could continue with its planned IFR projects, but expected PWSB to finance the balance of its IFR program with long-term debt.¹¹¹ PWSB's IFR Plan,¹¹² states that the source of funding for the IFR Program is to be derived from a combination of long-term bond financing and pay-as-you-go funding. The IFR Plan explains that bond financing has the advantage of providing full, up-front funding for large projects, such as the new Water Treatment Plant project and the Stump Hill Tank project. Pay-as-you-go funding, on the other hand, is suitable for ongoing programs, such as service line replacements, pipeline rehabilitation, and valve and hydrant replacements. The IFR Plan notes that, while bond financing can reduce the amount of annual payments for capital costs, the advantage of using pay-as-you-go funding is that overall costs to ratepayers for capital projects are reduced because no interest charges or bond issuance costs are associated with pay-as-you-go funding. The IFR Plan indicates that, on a going-forward basis, PWSB will use \$900,000 annually in pay-as-you-go funding for its IFR Program.

We note that the Division's other witness, Mr. Mancini, testified that each of the IFR projects for which emergency rate relief was granted last July is proceeding forward. We also note that the Settlement allows for the new position of Project Engineer to be funded with IFR funds.

¹¹¹ Order No. 15664 (issued August 3, 1998).

¹¹² Div. Ex. 9.

In light of the evidence presented, the Commission finds that PWSB has demonstrated the need to have some flexibility in funding its capital/IFR programs on a pay-as-you-go basis, as well as by means of long-term debt financing. The Settlement cost-of-service provides for \$900,000 in annual IFR funding, or approximately 9% of the total cost-of-service. We will provide the requested flexibility with respect to the use these IFR funds, *provided* that they are spent only on capital/IFR projects outlined in this filing and for the new Project Engineer position specified in the Settlement, and *provided further*, that PWSB complies with the restricted account funding and reporting requirements established in Order No. 15664 and in this Report and Order.

At the October 24, 2000 hearing, PWSB submitted as its Exhibit 6 revised tariff schedules implementing the rates established in the Settlement. After the Division determined that these revised tariff schedules included changes to certain miscellaneous charges for which it had not filed in this docket, however, PWSB resubmitted tariff pages eliminating these changes on October 25, 2000.¹¹³ In an October 25, 2000 memorandum to the Commission, the Division represented that it had reviewed and verified the calculations in the resubmitted tariffs, and found the tariffs to be in compliance with the Settlement, and recommended approval of the compliance tariffs as filed on October 25th.

¹¹³ PWSB's compliance tariffs are attached as Appendix B hereto and incorporated by reference herein.

At its open meeting on October 26, 2000, the Commission found that the compliance tariffs as resubmitted by PWSB on October 25th were in compliance with its open meeting decision of the same date, and approved said tariffs effective for consumption on and after November 1, 2000.

Accordingly, it is

(16585) ORDERED that:

1. The June 30, 2000 rate application by the Pawtucket Water Supply Board is hereby denied and dismissed.
2. The Settlement Agreement filed on October 24, 2000, as modified by the Commission's open meeting decision on October 26, 2000, is hereby approved. The Pawtucket Water Supply Board is authorized to recover additional annual revenues of \$1,820,799 for a total cost of service of \$10,050,085.
3. The funding provided to the Pawtucket Water Supply Board by this Report and Order for debt service/capital leases, infrastructure replacement, and the Central Falls franchise fee shall be set aside in restricted accounts.
4. The Pawtucket Water Supply Board will file with the Division and the Commission an agreed upon plan as to how the city of Pawtucket will pay the public hydrant charges which were not collected between the last general rate case and this docket.
5. The Pawtucket Water Supply Board shall file with the Commission on March 31st and September 30th of each year a report detailing any payments made to Central Falls in relation

to franchise fees and payments received from the city of Pawtucket for public hydrant fee charges.

6. The compliance tariffs as resubmitted and filed by the Pawtucket Water Supply Board on October 25, 2000 are hereby approved, effective for consumption on and after November 1, 2000.
7. The Pawtucket Water Supply Board shall comply with the reporting requirements set forth in this Report and Order and shall abide by all other terms and conditions imposed by the Settlement Agreement and by this Report and Order.

EFFECTIVE AT PROVIDENCE, RHODE ISLAND ON OCTOBER 26, 2000, PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED APRIL 30, 2001.

PUBLIC UTILITIES COMMISSION

Elia Germani, Chairman

Kate F. Racine, Commissioner

Brenda K. Gaynor, Commissioner