

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**IN RE: NARRAGANSETT BAY COMMISSION** :  
**PETITION TO RECOVER ELECTRONIC** : **DOCKET NO. 5224**  
**PAYMENT FEES RESULTING FROM COVID-19** :  
**PUC DECISIONS** :

**ORDER**

On January 19, 2022, the Narragansett Bay Commission (NBC) filed with the Public Utilities Commission (Commission) a Miscellaneous Petition to Recover Electronic Payment Transaction Fees. NBC’s cost of service does not include recovery of electronic transaction fees that, prior to March 16, 2020, were recovered from the users of electronic payment methods. On March 16, 2020, the Commission, in response to the COVID-19 pandemic and associated economic and social restrictions opened Docket No. 5022 which, among other restrictions on collections activities, prohibited the regulated utilities from charging late fees, interest charges, credit card fees, debit card fees, and ACH fees to their customers. While many of the restrictions on collections were lifted over time, on November 5, 2021, the Commission ordered the utilities to continue absorbing the costs associated with electronic payment methods and allowed the utilities, for whom recovery of electronic transaction expense was not part of their cost of service, to propose a time-limited recovery tariff of those waived fees.<sup>1</sup>

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<sup>1</sup> Order No. 24424 at 7; <https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-06/5022-Emergency-Ord24424%20%286-6-2022%29.pdf>.

The Commission also voted unanimously to require the utilities to continue to absorb any online payment transaction fees and to allow the utilities who do not have those costs included in their cost of service the opportunity to file for rate recovery on a going forward basis through a specific ratemaking mechanism that would be in effect through the utility’s next rate case. It should be designed to recover no more than actually expended by the utility to absorb the fees. The Commission did not address previously accrued costs associated with the waived fees because some of the utilities have indicated they may not seek back cost recovery. Additionally, the Commission did not design a cost recovery mechanism because each utility may have different needs or timing of their respective request. The Division noted that they would support recovery in a future ratemaking proceeding on the basis that such extraordinary costs would qualify for an exception to retroactive ratemaking prohibitions. This, however, also appears to qualify for a time-limited exception to the restrictions on single-issue ratemaking. In the utility’s next base rate case (general or

In its Petition, NBC proposed two recovery mechanisms supported by prefiled testimony of Karen Giebink, NBC's Chief Financial Officer. Ms. Giebink proposed to recover NBC's actual incurred expenses for the processing of credit card, debit card, and voice transaction fees (electronic transaction fees)<sup>2</sup> for the period April 1, 2020 through the date of the Commission's decision in this matter by withdrawing that amount from its restricted Stabilization Account in the Debt Service Fund and transferring it to the Operation and Maintenance Fund. She indicated that the balance of the Stabilization Account was approximately \$9.6 million as of December 31, 2021 and she projected a transfer of \$658,553.87 assuming a January 31, 2022 decision by the Commission. For costs incurred beyond the Commission's decision, she proposed to increase NBC's allowed annual revenue requirement by \$585,984. She calculated this amount by taking the December 2021 waived fee expense and increasing it by an average growth factor. She did this for each month over the following 12-month period.<sup>3</sup> The resulting annual rate increase would range from 0.55% to 0.56% depending on customer class, with a typical residential customer paying an additional \$2.87 per year.<sup>4</sup> Ms. Giebink responded to discovery, providing an accounting of the Stabilization Account, noting that the fund balance was sufficient to effectuate the transfer without delaying any infrastructure projects, and providing an update on the actual electronic transaction fee expense for through February 2022.<sup>5</sup>

On February 28, 2022, the Division of Public Utilities and Carriers (Division) submitted a Memorandum from John Bell, Chief Accountant, summarizing the filing and recommending approval. Mr. Bell stated that withdrawing the actual incurred costs from the restricted

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abbreviated), the costs should be included in their cost of service in the same manner as all other billing costs, taking into account any cash flow benefits that result from online payments.

<sup>2</sup> At the hearing, Ms. Giebink testified that there is no fee for an electronic check payment. Hr'g. Tr. at 34 (Mar. 10, 2022).

<sup>3</sup> Giebink Test. at 3-4; Schedule KG-1.

<sup>4</sup> Schedule KG-5 revised.

<sup>5</sup> NBC's Responses to PUC's First and Second Data Requests.

Stabilization Account was reasonable “because it avoids charging future ratepayers’ costs already incurred and attempts to match revenue and expenses by offsetting the prior costs against funds previously collected and available in the stabilization account.”<sup>6</sup> Commenting on the proposal for the recovery of future costs, he stated that the proposal and calculation of projected expenses was reasonable “because it builds a known and measurable expense into NBC’s cost of service and avoids deferring the costs for recovery from future ratepayers.”<sup>7</sup>

On March 10, 2022, the Commission conducted a public hearing. One member of the public provided comment about NBC’s general rate structure and costs related to the Combined Sewer Overflow Project, but not about the proposal before the Commission.<sup>8</sup> NBC presented Ms. Giebink and the Division presented Mr. Bell to testify. Both witnesses agreed it would be reasonable to withdraw the actual amount incurred as of the date of the Commission’s decision in this matter rather than a projected amount. Mr. Bell suggested that NBC be required to file with the Commission and Division the amount transferred.<sup>9</sup> Ms. Giebink testified that the increased amount of the transfer would not adversely affect any of NBC’s debt service requirements or delay any projects.<sup>10</sup>

With respect to the calculation of the projected electronic transaction fee expense, the proposal from NBC was to increase the annual revenue requirement by \$585,985 without any reconciliation of expenses to revenues. She testified that NBC expects to file its next general rate case in the fall of 2022 for effect July 1, 2023, approximately 15 months from the expected effective date in this matter.<sup>11</sup> Ms. Giebink confirmed that in the event NBC does not file the rate

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<sup>6</sup> Bell Mem. at 2 (Feb. 28, 2022).

<sup>7</sup> *Id.*

<sup>8</sup> Hr’g. Tr. at 9-16.

<sup>9</sup> *Id.* at 27.

<sup>10</sup> *Id.* at 31.

<sup>11</sup> *Id.* at 28-29.

case, she would not be opposed to a true-up provision after twelve months but suggested a \$10,000 bandwidth on that filing. Mr. Bell recommended against a reconciliation filing and indicated his preference to be that if new rates are not approved for effect July 1, 2023, NBC would perform a 15-month true-up with a transfer to or from the Stabilization Account.<sup>12</sup>

At an Open Meeting held on March 29, 2022, the Commission considered the evidence and unanimously approved NBC's request for authority to transfer the actual accrued total of waived electronic payment processing fees incurred from the month ending April 30, 2020, through March 31, 2022; and its request to increase the annual revenue requirement by \$585,984. The Commission also directed NBC to make a compliance filing within thirty days of the transfer from the restricted Stabilization Account to support the amount transferred. NBC should continue to track the actual electronic transaction fees incurred in order to perform a true-up for effect July 1, 2023, if the issue has not already been addressed as part of a general rate filing.

On April 4, 2022, NBC made a compliance tariff filing to incorporate the Commission's decision. NBC explained that it was not able to update its software for effect April 1, 2022. Therefore, NBC proposed an effective date of May 1, 2022. At an Open Meeting held on April 11, 2022, the Commission approved NBC's compliance tariff as consistent with its March 29, 2022 decision.

Accordingly, it is hereby

(24511) ORDERED:

1. Narragansett Bay Commission is authorized to withdraw from the restricted Stabilization Account within the Debt Service Account, the actual accrued total of

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<sup>12</sup> *Id.* at 30-32.

waived electronic payment processing fees incurred from the month ending April 30, 2020 through March 31, 2022.

2. Narragansett Bay Commission shall file within thirty (30) days of the transfer a compliance filing supporting the amount transferred.
3. Narragansett Bay Commission's request to increase its allowed annual revenue requirement by \$585,984 is hereby approved for effect May 1, 2022.
4. Narragansett Bay Commission shall continue to track its actual electronic payment processing fees and perform a true-up of the expenses for effect July 1, 2023 if such a true-up was not performed as part of a general rate filing for effect on or about that same date.
5. Narragansett Bay Commission's compliance tariff filing made on April 4, 2022 is hereby approved for effect May 1, 2022.

EFFECTIVE AT WARWICK, RHODE ISLAND, ON MAY 1, 2022, PURSUANT TO  
OPEN MEETING DECISIONS ON MARCH 29, 2022 AND APRIL 11, 2022. WRITTEN  
ORDER ISSUED ON OCTOBER 19, 2022.

PUBLIC UTILITIES COMMISSION



*Ronald T. Gerwatowski*

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Ronald T. Gerwatowski, Chairman

*Abigail Anthony*

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Abigail Anthony, Commissioner

*John C. Revens, Jr.*

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John C. Revens, Jr., Commissioner

NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws §39-5-1, any person aggrieved by a decision or order of the PUC may, within seven (7) days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.