

**STATE OF RHODE ISLAND  
DIVISION OF PUBLIC UTILITIES AND CARRIERS  
89 JEFFERSON BOULEVARD  
WARWICK, RHODE ISLAND 02888**

In Re: City of Newport, Utilities )  
Department, Water Division ) Docket No.: D-22-14  
Application for Authority to )  
Issue Debt )

**REPORT AND ORDER**

On October 13, 2022, the City of Newport, Utilities Department, Water Division (“Newport Water”) filed an application with the Rhode Island Division of Public Utilities and Carriers (“Division”) seeking authority to borrow from the Rhode Island Infrastructure Bank’s Safe Drinking Water Revolving Fund in an amount not to exceed \$3,305,000. The application was filed in accordance with the requirements contained in Section 39-3-15 of the Rhode Island General Laws and Rule 1.14 of the Division’s *Rules of Practice and Procedure*.

In its filing, Newport Water states that it plans to borrow from Safe Drinking Water Revolving Fund, through the Rhode Island Infrastructure Bank (“RIIB”), revenue bonds in an amount not to exceed \$3,305,000, the proceeds of which will be used to fund distribution system improvements on Spring Street, Perry Street, Roseneath Avenue, Narragansett Avenue, and Sullivan Street in the City of Newport, Rhode Island.<sup>1</sup>

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<sup>1</sup> Newport Water Exhibit 1.

In response to the application filing, the Division conducted a duly noticed public hearing on October 25, 2022. The hearing was conducted in the Division's hearing room, located at 89 Jefferson Boulevard in Warwick. The following counsel entered appearances at the hearing:

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| For Newport Water:                      | Joseph A. Keough, Esq.                                      |
| For the Division's<br>Advocacy Section: | Gregory Schultz, Esq.<br>Special Assistant Attorney General |

### **Newport Water's Direct Case**

Newport Water proffered four witnesses in support of its borrowing request. Three of the four witnesses submitted pre-filed direct testimony.<sup>2</sup> The witnesses were identified as Mr. Robert C. Schultz, Jr., Newport Water's Director of Utilities; Ms. Maureen Gurghigian, Managing Director at Hilltop Securities, Inc., and Harold J. Smith, Vice President of Raftelis Financial Consultants, Inc. Ms. Karen S.D. Grande, Esq., Bond Counsel to Newport Water personally appeared before the Division.

Mr. Robert C. Schultz testified in support of the proposed borrowing. He began his testimony by explaining that the funds will be used to support distribution main improvements on Spring Street, Perry Street, Roseneath Avenue, Narragansett Avenue, and Sullivan Street in the City of Newport, Rhode Island and that the work includes the installation of approximately 1,500 linear feet of 12-inch ductile iron main pipe and related appurtenances.<sup>3</sup> He went on

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<sup>2</sup> Newport Water Exhibit 1.

<sup>3</sup> Newport Water Exhibit 1, Schultz Testimony, pp. 2-3.

to testify that the Rhode Island Public Utilities Commission (Commission) has approved rates necessary to service this loan.<sup>4</sup>

Mr. Schultz related that certain documents were appended to the original application for borrowing authority. Those documents included a Capitalization Schedule, Newport Water Revenue Bond Trust Indenture, a Draft of the Seventh Supplemental Indenture, and Draft of the Loan Agreement with RIIB.<sup>5</sup> In closing, Mr. Schultz stated that there were no unusual features of this borrowing that would have a significant impact on the Division's ability to regulate Newport Water.<sup>6</sup>

Ms. Maureen Gurghigian related that she is providing assistance to Newport Water with respect to the instant borrowing through RIIB. She testified that the proposed \$3,305,000 borrowing from the RIIB is needed for financing continued improvements to the distribution system.<sup>7</sup>

In explaining the type of financing Newport Water is seeking in its application, Ms. Gurghigian confirmed that the loan will be made under the Drinking Water State Revolving Fund (DWSRF) which was created to provide financial assistance to water suppliers.<sup>8</sup> She went on to state that the fund uses federal capitalization grants and state matching funds to provide subsidized loans, 25% below market rate, to water suppliers for qualifying projects listed on the Project Priority List maintained by the Department of Health.<sup>9</sup> She related

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<sup>4</sup> Id., at 3.; Tr. at 8.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Newport Water Exhibit 1, Gurghigian Testimony, p. 2.

<sup>8</sup> Id. at 3.

<sup>9</sup> Id.

that the DWSRF provides a significant portion of the funding for Newport Water's ongoing capital program.<sup>10</sup>

Ms. Gurghigian next described the terms of the borrowing and the applicable interest rates. She testified that once Newport Water draws down on the construction funds it would have 20 years to repay the loan.<sup>11</sup> Newport Water anticipates the interest rate on the loan not to exceed a market rate of 5.00% which would result in a subsidized rate of approximately 3.75%. For purposes of Division approval, she recommended a not-to-exceed market rate of 5.35% to allow for market rate fluctuation, and a not-to-exceed subsidized rate of 4.00%.<sup>12</sup>

Next Ms. Gurghigian testified with respect to how the funds from the borrowing would be disbursed. She explained that \$3,000,000 of the proposed borrowing would be available for project funds and approximately \$240,000 would be set aside in the debt service reserve fund. She stated that the remaining \$65,000 would be allocated for costs of issuance, rating agency fees, bond counsel, financial advisor and trust fees, and the RIIB origination fee.<sup>13</sup>

Ms. Gurghigian also proffered a debt service schedule with her pre-filed testimony. She testified that for the \$3,305,000 loan, annual debt service is expected to increase by approximately \$240,000 per year. She noted that this amount is subject to change based upon the actual project costs, draw schedule and prevailing interest rates at the time of borrowing.<sup>14</sup>

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<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> Id. at 4.

<sup>14</sup> Id., p. 4; Schedule MG-1.

Mr. Smith began his testimony by addressing the immediate ratepayer impact of the proposed loan. Mr. Smith testified that, based on the debt service schedule set forth in MG-1 and assuming interest rates provided in Ms. Gurghigian's testimony, the combination of Newport Water's current debt service funding, debt service stabilization, and IFR funding approved by the Rhode Island Public Utilities Commission would sufficiently cover Newport Water's existing debt obligations, the proposed borrowing, as well as coverage requirements.<sup>15</sup> Mr. Smith explained that the Commission recently authorized Newport Water to collect an additional \$940,004 in revenue for contributions to Newport Water's Debt Service Restricted account to fund the debt service on the proposed borrowing and to ensure that Newport meets its debt service coverage requirements.<sup>16</sup>

Ms. Grande provided testimony concerning lead service line replacement program funding. She testified that General Counsel for the RIIB has advised her that the RIIB expects to receive federal funding totaling approximately \$150,000,000 over the next five years to support drinking water state revolving fund lead service line replacement programs.<sup>17</sup> She testified that it is her understanding that this program will require the replacement of both public and private side lead service lines.<sup>18</sup> She went on to explain that the Environmental

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<sup>15</sup> Newport Water Exhibit 1, Smith Testimony, p. 3.

<sup>16</sup> Id.

<sup>17</sup> Tr. at 15-16.

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

Protection Agency (EPA) has yet to issue regulations to this effect but has provided guidance for loans through this program.<sup>19</sup>

Ms. Grande related that the RIIB insisted that this loan contain certain terms addressing the replacement of public and private side lead service lines.<sup>20</sup> The terms require Newport Water to use best efforts to replace public and private lead service lines.<sup>21</sup> Under the agreement, Newport Water is to provide notice to the property owner or occupant of a non-owner-occupied property that a lead service line has been discovered. The property owner is then given the opportunity to have Newport Water replace the private side. If the property owner refuses, the occupant is provided notice of the refusal. She further explained that Newport Water is required to maintain records of lead service line discoveries and is still able to replace the public side if unable to replace the private side.<sup>22</sup>

### **The Advocacy Section's Position**

The Division's Advocacy Section did not present any witnesses in this case but did proffer one exhibit containing Newport Water's responses to preliminary questions.<sup>23</sup> After a brief cross-examination of Newport Water's witnesses, the Advocacy Section stated for the record that it was satisfied from the evidence presented, that Newport Water had met the requisite burden of proof set forth in

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<sup>19</sup> Id. at 17.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id. at 18.

<sup>23</sup> Advocacy Section Exhibit 1.

R.I.G.L. §39-3-15, et seq. and that the proposed borrowing was in the public interest.

**Findings**

Predicated on a careful examination of the record in this matter, the Division finds that the instant application request is reasonable and in the best interest of Newport Water's ratepayers.

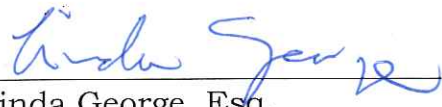
Now, therefore, it is

(24531) ORDERED:

1. That Newport Water's October 5, 2022 application, which seeks Division approval under R.I.G.L. §39-3-15, to borrow an amount not to exceed \$3,305,000 from the Rhode Island Infrastructure Bank's Safe Drinking Water Revolving Fund, is hereby approved as filed.
2. That the Division hereby limits approval of the instant application to the terms and details identified in the record.
3. That the Division hereby makes this approval contingent upon Newport Water's use of the debt service allowance previously approved by the Public Utilities Commission, or if subsequently required, by additional debt service allowances approved by the Public Utilities Commission.

Dated and Effective at Warwick, Rhode Island on November 16, 2022.

  
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Mark Allen Simpkins, Esq.  
Hearing Officer

Approved:   
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Linda George, Esq.  
Administrator



**STATE OF RHODE ISLAND**

**DIVISION OF PUBLIC UTILITIES & CARRIERS  
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**NOTICE OF AVAILABILITY OF JUDICIAL REVIEW  
(PROVIDED PURSUANT TO R.I.G.L. § 42-35-12)**

Please be advised that if you are aggrieved by this final decision (report and order) of the Rhode Island Division of Public Utilities and Carriers (“Division”) you may seek judicial review of the Division’s final decision by filing an appeal with the Rhode Island Superior Court. You have thirty (30) days from the mailing date (or hand delivery date) of the Division’s final decision to file your appeal. The procedures for filing the appeal are set forth in Rhode Island General Laws, Section 42-35-15.

Proceedings for review may be instituted by filing a complaint in the Superior Court of Providence or Kent Counties. Copies of the complaint must be served upon the Division and all other parties of record in your case. You must serve copies of the complaint within ten (10) days after your complaint is filed with the Superior Court.

Please be advised that the filing of a complaint (appeal) with the Superior Court does not itself stay enforcement of the Division’s final decision. You may however, seek a stay from the Division and/or from the Court.

The judicial review shall be conducted by the Superior Court without a jury and shall be confined to the record. The Court, upon request, shall hear oral argument and receive written briefs.