

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

In Re: The Narragansett Bay Commission :
Application Seeking Approval to : Docket No.: D-24-05
Pursue Refunding of All or a Portion :
Of the Outstanding 2008 Series A :
Revenue Refunding Bonds :
& :
Approval to Pursue Tender Offer :
Purchase and Refunding of All or a :
Portion of the Outstanding 2020 :
Series A Revenue Refunding Bonds :

REPORT AND ORDER

On April 4, 2024, the Narragansett Bay Commission (“NBC”) filed an application with the Rhode Island Division of Public Utilities and Carriers (“Division”) seeking authority to pursue refunding of outstanding NBC Wastewater System Revenue Refunding Bonds 2008 Series A and approval for tender offer purchase and refunding of all or a portion of NBC’s Wastewater System Revenue Refunding Bonds 2020 Series A.

The application was filed in accordance with the requirements of Rhode Island Gen. Law §39-3-15 and Rule 1.14 of the Division’s *Rules of Practice and Procedure*. In its filing, NBC states that the purpose of the Bond Refundings is to lower the principal amount and overall debt service owed on these bonds which will result in a financial benefit to NBC and its ratepayers. The application notes that the refunding bonds shall only be issued if NBC is able to achieve satisfactory net present value savings, net of issuance costs.

In response to the filing, the Division conducted a duly noticed public hearing on April 25, 2024. 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:

For NBC:	Joseph A. Keough, Esq.
For the Division's Advocacy Section:	Gregory Schultz, Esq., Special Assistant Attorney General

NBC's Direct Case

NBC submitted pre-filed direct testimony from two witnesses in support of its application: John Scotton, Treasury & Debt Manager and Stephen Maceroni, a Director with PFM Financial Advisors, LLC ("PFM").

I. John Scotton, Treasury & Debt Manager

Mr. Scotton joined NBC in his capacity as Treasury and Debt Manager in November 2023 and this is his first opportunity to provide testimony in a Division proceeding.¹ Mr. Scotton is a Certified Public Accountant with over a decade of accounting and debt management experience. Mr. Scotton advised that the Division has previously approved NBC's requests for refunding, including: 2005 Series A Bonds (Division Docket No. D-14-111; Order No. 21605); 2007 Series A Bonds (Division Docket D-15-03; Order No. 21845); and 2013 Series A and 2013 Series C Bonds and specific maturities of the 2014 Series B and 2015 Series A Bonds (Division Docket D-19-33; Order No. 23752).

¹ At hearing, Mr. Scotton adopted his pre-filed testimony under oath.

Mr. Scotton described the proposed refunding as a refinancing. He explained that in past refundings, NBC has replaced higher interest rate borrowings with lower interest rate borrowings. In this case, however, NBC seeks to replace its current lower interest rates for higher interest rates in exchange for a discounted principal balance.² Mr. Scotton indicated that while the two requests in this petition are similar, they are not identical.

A. 2008 Series A Bonds

On July 17, 2008, NBC issued the tax-exempt Series A bonds in variable rate mode. On January 20, 2020, NBC converted the interest rate from variable mode to a tax-exempt fixed rate of 2.29% through a direct purchase by J.P. Morgan (“JPM”). Interest rates have increased sharply since 2020. JPM recently approached NBC with a proposal to refund the 2008 Series A Bonds at a discount of 6% of the outstanding principal balance of \$52,965,000. Therefore, the new principal balance would be \$49,787,100, net of expenses.³ Based on current market conditions, this represents aggregate projected net present value savings of \$2.128 million or 4.05%. The proposed transaction does require a rating agency credit review and the completion of public offering documents.⁴

B. 2020 Series A Bonds

On March 19, 2020, NBC issued 2020 Series A (federally taxable) Bonds of \$196,360,000; currently \$186,555,000 of the bonds are outstanding. NBC seeks to refund all or a portion of these bonds through a tender offer to current

² Scotton Pre-filed Test. at 1 (Apr. 4, 2024).

³ *Id.* at 3.

⁴ *Id.*

bondholders.⁵ Mr. Scotton provided that interest rates were at historic lows in 2020 and that current bondholders may be interested in tendering and selling their 2020 Series A Bonds at a discount in order to redeploy their capital at higher interest rates. NBC would issue tax-exempt refunding bonds to finance the purchase. The intent is to generate long-term savings by lowering the overall outstanding principal.

C. Refunding Considerations

Mr. Scotton testified that NBC is interested in these transactions because the savings to NBC's ratepayers would be material and achievable. Moreover, there are economies of scale by undertaking both transactions simultaneously such as the credit review and preparation of public offering documents.⁶ He further stated that NBC seeks approval to be positioned to execute these transactions as soon as practicable because the risk of declining interest rates would make the transactions less attractive to JPM and to the existing Series 2020 A bondholders.

NBC's Board of Commissioners has authorized these refunding transactions through approval of NBC Resolutions No. 2024:06 and 2024:08.⁷ Mr. Scotton further assured that NBC has sufficient coverage to meet the debt service and debt service coverage requirements and that the refundings will have no impact on current rates.⁸

⁵ *Id.*

⁶ *Id.* at 4.

⁷ *Id.* Also see Exhibits JS-1a and JS-1b.

⁸ *Id.* at 5 and Exhibits JS-2a and JS 2-b.

II. Stephen Maceroni, Director-PFM Financial Advisors, LLC⁹

In his pre-filed testimony, Mr. Maceroni explained that since 1975, PFM has provided financial advisory services to public entities. PFM has grown into a national firm with over 300 employees in 32 offices across the United States. In 2023, PFM provided financial advisory services on more than 648 transactions in excess of \$71.9 billion.¹⁰ In terms of water and wastewater transactions, in 2023, PFM provided financial advisory services to 58 transactions for a total par amount in excess of \$13.0 billion.¹¹

Mr. Maceroni stated that his firm has been working with NBC's Board of Directors since 2012 and that he has worked closely with NBC on its loans through the Water Infrastructure Finance and Innovation Act program which is administered by the United States Environmental Protection Agency. Most recently, he worked with NBC on its 2023 financings through the Rhode Island Infrastructure Bank ("RIIB") for the principal amount of \$100 million, as well as the 2023 Series A, 2023 Series B, and 2024 Series A RIIB loan.¹²

A. 2008 Series A Bonds

Mr. Maceroni's testimony mirrored that of Mr. Scotton. In addition, Mr. Maceroni provided a table entitled Exhibit I which detailed the 2008 Refunding Statistics. It depicted the net present value of savings of \$2,148,984 for the ratepayers.¹³

⁹ At hearing, Mr. Maceroni adopted his pre-filed testimony under oath.

¹⁰ Maceroni Test. at 1 (Apr. 4, 2024).

¹¹ *Id.* at 2.

¹² *Id.*

¹³ *Id.* at 4.

B. 2020 Series A Bonds

Mr. Maceroni explained that the 2020 Series A bonds are taxable, and that NBC would refund these taxable bonds through the issuance of tax-exempt bonds. He indicated that in the current market, taxable rates are much higher than tax-exempt rates. Exhibit II in his testimony, a chart illustrating the 5-year Treasury Ratio between taxable and tax-exempt bonds demonstrates that the current 56.9% ratio is quite low compared to the five-year average of 83.4%.¹⁴

Mr. Maceroni related that pursuant to IRS regulations, NBC can only issue a tender on 56% of the outstanding principal amount of the 2020 Series A bonds. Additionally, discounts offered to bond holders would range from 6% to 25% of principal outstanding, due to varying maturity dates. Historically, approximately 30% of owners of the outstanding principal amount will accept a discount tender offer. As depicted by Exhibit III, the proposed tax-exempt refunding under these parameters will generate present value savings of approximately \$3.0 million, or 10%, net of all fees and expenses.¹⁵

C. Refunding Considerations

Mr. Maceroni provided that there are two types of refundings: (1) Current Refunding- one in which the refunded bonds are paid off within 90 days, and (2) Advanced Refunding- when bonds are paid off in a period longer than 90 days. He indicated that the proposed refundings of 2008 Series A Bonds and 2020 Series A Bonds are Current Refundings because tax-exempt Advance Refundings

¹⁴ *Id.* at 5.

¹⁵ *Id.* at 5 and Exhibit III at 6.

are not permitted under current federal tax law. He further explained that the Government Finance Officers Association's ("GFOA") suggested best practice for executing a refunding transaction is the ability to achieve a net present value savings measured in relation to the principal amount of the bonds being refunded. Additionally, NBC's Debt Policy generally considers a 4.0% net present value savings for an Advanced Refunding and a lower threshold for a Current Refunding. In this case, the proposed refunding of the Series 2008 A Bonds generates a 4.05% net present value savings and the proposed refunding of the 2020 Series A Bonds generates a 10% net present value savings. Therefore, he noted that both refundings exceed both the GFOA's and NBC's guidelines for refundings.¹⁶

Finally, as to timing, Mr. Maceroni indicated that while the current market environment makes these transactions viable, the biggest risk associated with any deferral of this plan is that interest rates will fall, making the proposed discount less attractive. He stated that it is important that NBC be prepared to quickly enter the market. He anticipates that bond pricing would take place in late May, with closings for the 2008 Bonds in early June 2024 and mid to late June for the 2020 Bonds. Therefore, NBC seeks Division approval no later than May 1, 2024.

III. Filing Amendment/Partial Withdrawal

By letter dated April 19, 2024, NBC, through Counsel, withdrew its request for the proposed tender offer purchase and refunding of all or a portion of the

¹⁶ *Id.* at 6.

Narragansett Bay Commission Wastewater System Revenue Refunding Bonds 2020 Series A (“2020 Series A Bonds”), due to an updated analysis which rendered the transaction infeasible.

IV. The Hearing

At hearing, on direct examination, Mr. Maceroni confirmed that NBC had withdrawn its request for the proposed tender offer purchase and refunding of all or a portion of the 2020 Series A Bonds. He indicated that Series 2008 transaction represented a highly unusual situation because these bonds were not callable. Although interest rates have changed a bit since the filing, he stated this was a common occurrence in the month of April for municipal bonds, relating to the fact that its tax season. He indicated that the rates would likely settle in the next month, prior to concluding the refunding. He opined that the transaction still represented a tremendous benefit to NBC and its ratepayers because it removed debt from NBC’s balance sheet and will provide savings to the ratepayers of \$1.8 M on a budgetary basis.¹⁷ Mr. Maceroni further advised that the NBCs credit rating had been updated immediately prior to the hearing and was AA- which is the second highest rating.

On cross-examination, Mr. Scotton confirmed that the “economies of scale” referenced in his testimony still existed without the Series 2020 bond transaction because the 2008 Bond transaction would still be coupled with NBC’s recently approved loan of \$75 million through the RI Infrastructure Bank.

¹⁷ \$1.458 M on a present value cash flow basis.

The Advocacy Section's Position

The Division's Advocacy Section presented oral testimony from Alberico Mancini, Chief Regulatory Analyst. He testified that he had reviewed the filing and agreed with NBC's request as reasonable and prudent and in the best interest of NBC's ratepayers. He recommended approval of the application.

Findings

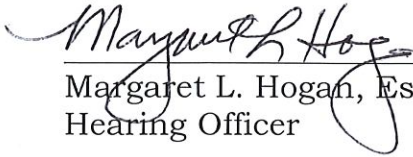
The Division finds that the witnesses appearing before the Hearing Officer were credible and reliable and that there were no conflicting facts. Predicated on a careful examination of the record and testimony in this matter, the Division finds that the instant application request for the Series 2008 A Bond Refunding is reasonable and in the best interest of NBC's ratepayers, and meets the requisite burden of proof set forth in R.I. Gen. Law §39-3-15, et seq.


Now, therefore, it is

(25003) ORDERED:

1. That NBC's April 4, 2024 application, which seeks Division approval under R.I. Gen Law §39-3-15, to refund its 2008 Series A Bonds, is approved.
2. That the Division hereby makes this approval contingent upon NBC'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 April 25, 2024.


Margaret L. Hogan, Esq.
Hearing Officer

Approved: 
Anthony Manni
Deputy Administrator¹⁸

¹⁸ Normally, the Division's Administrator would approve and sign this order. In her absence, and pursuant to the authority granted by R.I. Gen. Law §§42-20-3 and 42-20-5, Deputy Administrator Manni has been designated and authorized by the Administrator to sign Division orders.



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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.