

**State of Rhode Island and Providence Plantations
Public Utilities Commission**

Minutes of Open Meeting Held February 17, 2005

Attendees: Chairman Elia Germani, Commissioner Robert Holbrook, Cindy Wilson, Thomas Massaro, Alan Nault, Douglas Hartley and Luly Massaro.

Chairman Germani called the open meeting to order at 2:00 P.M. in the first-floor hearing room of the Public Utilities Commission.

Approval of Minutes of Open Meeting held February 2, 2005. After review, Chairman Germani moved to approve the minutes. The motion was seconded by Commissioner Holbrook and passed. Vote 2-0.

Competitive Telecommunications Service Providers:

The following companies submitted tariff filings. The Division has reviewed the tariff filings and does not recommend suspension of:

2618 – AT&T Communications of NE, Inc. (tariffs filings 1/28, 2/1 & 2/4/05)

2878 – ChoiceOne Communications (tariff filing 1/28/05)

3442 – BullsEye Telecom, Inc. (tariff filing 1/28/05)

2472 – Sprint Communications (tariff filings 1/28/05)

2426 – TCG Rhode Island (tariff filing 2/1/05)

2262(C19) – Inmate Calling Solutions, Inc. (tariff filing 2/4/05)

2262(P16) – Legacy Long Distance International (tariff filing 2/4/05)

2262(V5) – Bellsouth Long Distance, Inc. (tariff filing 1/28/05)

After review, the Commission followed the Division's recommendation that the tariff filings be allowed to go into effect without suspension.

Telecommunications Interconnection Agreements (ICAs)

The following ICAs were submitted for review. The Division has reviewed the ICAs and recommends approval of:

3392 – ICA Amendment No. 2 entered between Verizon RI and RNK, Inc.

3454 – ICA Amendment No. 1 entered between Verizon RI and Verizon Ave. Corp.

After review, Chairman Germani moved to approve the ICA amendments. The motion was seconded by Commissioner Holbrook and unanimously passed. Vote 2-0.

3626 - Woonsocket Water Division (WWD) – This docket relates to the Commission's review of the WWD's application to implement new rates designed to generate additional revenues requirements in the amount of \$2,067,150 or 38.11%. The Commission discussed the several outstanding issues outlined in the attached Staff Recommendation dated February 8, 2005. After review, Chairman Germani moved to accept the Staff Recommendation and accept WDD's proposed rate design. The motion was seconded by

Commissioner Holbrook and unanimously passed. Vote 2-0. The Commission requested that a copy of the recommendation be provided to the parties in the docket who attended the open meeting. As approved, WWD is authorized to collect additional revenue requirement in the amount of \$1,602,012 or 30.43% for a total cost of service of \$7,082,775 effective February 18, 2005.

3655 - Block Island Power Co. (BIPCO) – This docket relates to the Commission’s review of BIPCO’s application to implement new rates designed to generate additional revenues in the amount of \$463,171 or 21.96%. The Commission discussed, reviewed and ruled on the various motions and pleadings submitted by the parties:

1) Chairman Germani moved to deny BIPCO's Motion for Interim Relief. The motion was seconded by Commissioner Holbrook and unanimously passed. Vote 2-0.

2) Chairman Germani moved to deny the Block Island Sustainability Coalition's Motion to Intervene. The motion was seconded by Commissioner Holbrook and unanimously passed. Vote 2-0.

3) Chairman Germani move to deny the Town of New Shoreham's Request for Determination of Scope of Proceeding. The motion was seconded by Commissioner Holbrook and unanimously passed. Vote 2-0. The Commission found that demand side management and integrated resources planning issues are appropriate for review in context of BIPCO’s rate filing.

3654 - Prudence Island Utilities Corp. (PIUC) – In this docket the Commission continued its review of one pending issue regarding PIUC’s tariff filing to change its Terms and Conditions (for billing and collection, shutoff and fines section of tariff). After review, Chairman Germani moved to lift the suspension and approve the application of PIUC’s increased service charge to shutoffs requested by the customer. The motion was seconded by Commissioner Holbrook and unanimously passed. Vote 2-0.

The open meeting adjourned at 2:35 P.M.

MEMORANDUM

To: Commissioners

From: Cindy Wilson & Alan Nault

Date: February 8, 2005

Re: Docket No. 3626 – Woonsocket Water Department Rate Case

There are ten issues that were not resolved during the proceeding: (1) projected consumption; (2) number of authorized positions; (3) cost for roads and walks; (4) light & power related to the new electric contract; (5) costs related to Harris Pond; (6) property taxes; (7) legal services and engineering services related to privatization and regionalization; (8) rate case expense; (9) debt service requirements; and (10) operating reserve funding. Schedule PUC-1, attached, is an

overview showing the various positions of the parties. The far right hand column contains PUC staff recommendations.

Schedule PUC-2 addresses projected consumption at current rates. WWD used only the test year consumption of CY 2003, a wet cool year as the projected rate year, CY 2005, usage. The Division recommended using a three year average as more representative of a “usual” year. PUC Staff agrees with using the most recent three year data of FY 2002, 2003 and 2004, after adjusting out lost industrial usage, as represented on WWD response to Commission Data Request 1-15. This is essentially the same as the Division’s adjustment in its post-hearing brief. Calculation of the rate year consumption is 1,782,046 CCFs. Under this methodology, WWD will collect \$56,505 more in revenues at current rates than WWD projected in its filing. The result is a \$56,505 reduction to WWD’s claim.

Schedule PUC-3 addresses the number of authorized positions and associated funding. WWD is currently operating with 33 positions filled, the number funded in Docket No. 3512. WWD requests continuation of funding for 33 positions. There was discussion that 36 employees were authorized previously. The Division is recommending funding of 32 employees. There is no indication that WWD is overstaffed or understaffed at 33 funded positions. Therefore, the PUC Staff recommends authorizing 33 positions and funding 33 positions in this docket. However, WWD requested an increase in salaries in excess of the increase provided in the labor

contracts. Like the Division, Staff recommends reducing the increase to that which is provided in those contracts. The result is a \$10,192 reduction to WWD's claim.

Schedule PUC-4 addresses Study Upgrade Costs associated with the claim that WWD's employees are underpaid. The Division supported the upgrades. However, because of the adjustment made in PUC-3 regarding the contractual increases, an adjustment to WWD's claim in the form of a \$459 reduction must also be made to the upgrades. The Commission should restrict these funds to ensure they are used for upgrades. Likewise, as shown on PUC-5 and PUC-6, WWD's calculations for longevity (\$369) and payroll taxes (\$843) need to be reduced.

Schedule PUC-7 addresses maintenance related to Roads and Walks. As the Commission will recall, WWD indicated that there is a new City policy requiring curb to curb paving on all roads less than 5 years old. However, in a response to Record Request 2, WWD indicated that it believed the policy was being applied inconsistently to the utilities. WWD provided a document indicating that NEGas had done curb to curb paving in two instances, but did not indicate whether or not that was pursuant to the policy, only that it was done. The Policy is not an ordinance, it consists only of sketches, and it appears to be applied inconsistently. The WWD has not made its case that its ratepayers should be paying for a policy that tripled its costs in one year when it is not clear there is a policy being applied to

all ratepayers. Furthermore, the production of only sketches appears to be similar to the ordinances the Commission invalidated in Docket Nos. 2624, 2641, and 3485. Because the FY 2004 costs were so out of line with the prior four years, Staff recommends using a five-year average rather than the three year average recommended by the Division. The only reason the Commission should not simply exclude FY 2004 costs from the average is Mr. Marvel's testimony that paving costs are rising with oil costs. The Division did not rebut that contention. The result is an \$86,033 reduction to WWD's claim for Roads and Walks. WWD should not utilize ratepayer funds for curb to curb paving unless the policy is applied equally to all utilities after the opportunity for all utilities to challenge the policy. The City is free to pass an ordinance.

Schedule PUC-8 addresses an adjustment for Light and Power relative to the new Constellation contract. WWD was included in a City RFP for a competitive energy supply contract. TransCanada bid 5.7 cents per kWh for the entire City for four years. Constellation bid 5.72 cents per kWh for all city usage except the wastewater treatment plant, which was bid at 5.4 cents per kWh for five years. The Division recommends using a weighted average and allowing only 5.5 cents per kWh. Staff recommends rejecting this for two reasons: (1) electric costs for the wastewater treatment plant are paid out of sewer rates, not the general city account, and (2) the Division's position could hurt ratepayers in the future if a bid were to come back lower for the water system and the City wanted to average the rates for

ratemaking purposes. It would appear inconsistent to treat the two cases differently. However, Staff does agree that although Constellation provided a five year contract and TransCanada a four year contract, for purposes of setting rates, the TransCanada contract would have been more beneficial to ratepayers. Therefore, the Commission should allow 5.7 cents per kWh, resulting in a \$469 reduction to WWD's claim.

In addition, WWD shall not use ratepayer funds to address any Settlement between the City of Woonsocket and Constellation New Energy for billing disputes arising out of the account mix-up. It was the City of Woonsocket's responsibility to provide the correct account numbers to Constellation New Energy for billing purposes. Ratepayers should not suffer because of something over which the Superintendent had no control. The City was at fault and the City should resolve the issue without the use of ratepayer funds. To approve otherwise would constitute retroactive ratemaking, i.e., allowing future ratepayer funds to be used for past mistakes. In addition, Mr. Marvel should monitor all bills paid by the City for water department activities and ensure that ratepayers are not paying late fees/interest charges. Mr. Marvel testified that he does not pay the bills, but rather the City does. He did not believe ratepayers should be responsible for late fees when there is money available to pay the bills.

Schedule PUC-9 addresses light and power costs relative to Harris

Pond. WWD requested \$25,000 in the rate year. The Division calculated the cost of chemicals versus electricity and came up with an adjustment. WWD contested the basis for the adjustment, but did not provide evidence of an alternative. Furthermore, Staff agrees that a more than fourfold increase over the three year average of electricity costs and almost tenfold increase over FY 2004 was not supported by the evidence. Therefore, the Commission should take administrative notice of the semi-annual reports filed in FY 2002, 2003 and 2004. The three-year average of power costs relative to Harris Pond, as filed by WWD is \$5,350. This amount, once adjusted for the contractual increase in power costs becomes \$6,907. Since WWD included Test Year costs for Harris Pond of \$1,097, the required net increase is \$5,810. The result is a \$19,190 reduction in WWD's claim.

Schedule PUC-10 addresses the impact of the decisions in Docket Nos. 3617 and 3648 rendered after WWD filed its case. The result is a \$1,335 reduction to WWD's claim for electricity costs.

Schedule PUC-11 addresses Property and Fire Taxes. Since the filing of WWD's case, the utility received the 2005 tax bill from the Town of North Smithfield. It was lower than projected. The result is an \$87,757 reduction to WWD's claim for property taxes.

Schedules PUC-12 and PUC-13 accept the Division's recommendation to disallow legal and engineering costs associated with privatization and regionalization. Mr. Marvel testified that he

believed the system was already a regional one. If the City sells the system, it will not be returning the proceeds through rates, but rather through taxes. Therefore, the taxpayers should pay for these costs. With regard to the funds already spent, the Commission should find that a passing comment by a commissioner that was not addressed in any Order, is not a “directive” to spend ratepayer funds. Furthermore, even if it could be considered a directive, no work product ever came out of it. WWD shall not use any additional ratepayer funds for this endeavor. The result is a \$100,000 reduction to WWD’s claim.

Schedule PUC-14 accepts the Division’s recommendation to allow \$30,000 funding of the restricted Rate Case Account. WWD did not adequately justify a 100% increase over the amount allowed in Docket No. 3512. The result is a \$10,000 reduction to WWD’s claim.

Schedule PUC-15 accepts the Division’s recommendation to allow the three year average funding of Debt Service. WWD argued that it is required to collect the required level of funding in each year, \$687,348 (CY 2005); \$782,795 (CY 2006) and \$778,285 (CY 2007). The Division argued that as long as the water department is funded to the correct level over the three year period used by WWD, funding is sufficient. WWD’s argument fails in that its request of \$780,540 does not cover CY 2006’s requirement. The Division’s recommendation of \$749,476 provides more funds than are necessary in CY 2005 and less in the remaining two years. However, because there is an excess in year

one, the fund will have sufficient carry-over in years two and three to satisfy the required funding level. If, in the next case, WWD produces evidence from its financial consultant for debt service or from Bond Counsel regarding interpretation of the bond covenant to which the Division has the opportunity to respond, the Commission may revisit the funding level. The result is a \$31,064 adjustment to WWD's claim.

Schedule PUC-16 accepts the Division's methodology of calculating the Operating Reserve. The Operating Reserve should be 1.5% on all operating expenses rather than the entire revenue requirement. As the debt level of the water and wastewater utilities has been increasing, the Commission has been moving away from including it in the calculation of the operating reserve. An operating reserve is appropriately calculated on operating expenses which can fluctuate, whereas debt service, IFR and Renewal & Replacement are more stable. The recent exceptions to this position have been settlements reached between the parties. The result is a \$54,161 adjustment to WWD's claim.

Staff recommendations show that WWD has a total cost of service of \$7,082,775 and a revenue requirement of \$6,867,194 from rates. Revenue at current rates produces \$5,265,182. The revenue deficiency and required increase to rates is \$1,602,012, or 30.43%. The effect on a typical residential customer using 100 CCF is an increase of 30.87% or \$90 per year. (Old rates \$290. New Rates \$380). These rates shall become effective for usage on and after

February 18, 2005.

**The Commission should accept WWD's rate design as reasonable.
The Division did not challenge the methodology.**