



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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MEMORANDUM

To: The Honorable Marvin L. Abney
Chairman, House Finance Committee

The Honorable William J. Conley, Jr.
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: March 25, 2019

Subject: New Article for the FY 2020 Appropriations Act
(19-H-5151)

The Governor requests that an additional article, entitled “Relating to Public Utilities Reserve Fund”, be submitted alongside the other articles submitted on January 17, 2019. This article amends current statute to provide administrative flexibility to the DPUC by removing the existing separation within the \$1.0 million consulting budget limit – currently set at \$750,000 for state issues and \$250,000 for federal issues – to allow for a single \$1.0 million consulting budget to be used as needed for state and federal work. The purpose of the change is to increase the flexibility for Division of Public Utilities and Carriers to advocate on behalf of ratepayers with no aggregate increase. In addition, the new article would create an additional \$250,000 budget authorization specifically for the review of utility emergency response plans and the investigation of outages, such as the Aquidneck Island natural gas service outage of January 21, 2019.

The Division routinely employs expert witnesses to represent the interests of Rhode Island ratepayers before the Public Utilities Commission. Existing statute sets a \$750,000 aggregate limit on consulting expenses for each utility (gas and electric) per calendar year, with an additional \$250,000 reserved for advocacy before federal agencies. The Division manages a team of expert technical consultants that provide testimony in litigation proceedings in a wide range of routine and special topic dockets. The Division is not in control of the range or type of issues that litigants bring before the Public Utilities Commission and is statutorily required to provide expert testimony. In addition, litigants have the right to ask data requests of Division experts, increasing costs beyond DPUC best efforts to control. Allowing the flexibility to use finance expert witnesses regardless of whether they are for state or federal issues, will increase the effectiveness of the DPUC without impacting overall costs to ratepayers.

If you have any questions regarding this new article, please feel free to call me at 222-6300.

TAM: 20-Amend-13

TDD#: 277-1227

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cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Jonathan Womer, Director, Office of Management and Budget
Kevin Lynch, Acting Administrator, DPUC
Libby Kimzey, Budget Analyst

NEW ARTICLE

RELATING TO PUBLIC UTILITIES RESERVE FUND

SECTION 1. Section 39-1-26 of the General Laws in Chapter 39-1 titled "Public Utilities Commission" is hereby amended to read as follows:

39-1-26. Public utilities reserve fund created – Appropriations – Recovery of expenses from utility companies. (a) There is hereby created a fund to be known as the public utilities reserve account, an account within the public utilities commission in the general fund. Such account, hereinafter referred to as the "fund", shall be used for the purpose of providing the financial means for the commission and division to purchase materials, and to employ on a contract or other basis, legal counsel, official stenographers, engineers, accountants, economists, and other expert witnesses, and for other necessary expenses of the commission and division in investigations and hearings related to applications and filings made by public utilities, or commission- or division-initiated investigations into utility operating practices, or related appeals to state or federal courts or in relevant regulatory matters before federal agencies. The general assembly shall annually appropriate to the fund a sum equal to twenty-five one thousandths of one percent (.00025%) of the gross, annual operating revenues of gas, electric, and telephone companies attributable to their conduct of intrastate operations in this state during the year next preceding; provided, however, that if at June 30, in any year the balance in the fund shall be in excess of one hundred thousand dollars (\$100,000), the amount of the excess shall forthwith be transferred to the general fund

of the state. Prebilled revenue shall be excluded from an excess balance to be transferred to the general fund. The state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment from the fund of such sums as may be required from time to time upon receipt by him or her of proper vouchers approved by the administrator.

(b) The public utility making an application or filing to the commission or division, or subject to a commission- or division-initiated investigation, or any public utility distributing electricity or gas whose retail rates would be affected by a proceeding before an agency of the federal government or a federal court, shall be charged with and shall pay a portion of the expenses reasonably so incurred by the commission and by the division for the purchase of materials and for the employment of legal counsel, official stenographers, engineers, accountants, and expert witnesses, and for travel and other necessary expenses as are reasonably attributable to the investigation or the hearing of the proposal by the commission and the division, or to the administrator's representation of the state before federal or state courts or an agency of the federal government. The administrator or the commission chairperson, as appropriate, shall ascertain the expenses and shall determine the amount to be paid by the public utility company or companies, and bills shall be rendered therefor either at the conclusion of the investigation or hearing, or from time to time during its progress, and the amount of each bill so rendered shall be paid by the public utility to the administrator or the commission, as appropriate, within thirty (30) days from the date of its rendition unless,

within the thirty-day (30) time period, the public utility so billed shall request an opportunity to be heard by the commission as to the amount thereof. The commission shall comply with any such request. Any amount of the bill not paid within thirty (30) days from the date of service of the determination upon the hearing, or, if none shall be requested, within thirty (30) days from the date of rendition of the bill, shall draw interest at the rate of twelve percent (12%) per annum. At the discretion of the administrator, or the commission chairperson, as appropriate, utility companies may be prebilled for contractual services utilized by the commission or division. Any revenue received from public utilities not expended upon the completion of the case will be promptly reimbursed to the utility company. The total amount that may be charged to any public utility under authority of this section for proceedings before the commission or division or in related appeals before state or federal courts in any calendar year shall not exceed seven hundred and fifty thousand dollars (\$750,000), in addition, the total amount that may be charged against any public utility under authority of this section for investigations and proceedings related to widespread utility outages and review of emergency response plans in any calendar year shall not exceed two hundred and fifty thousand dollars (\$250,000). ~~provided that any~~ Any indirect cost recovery obligations pursuant to § 35-4-27 shall constitute a separate and additional assessment to public utilities to be added to the foregoing expense assessment limits; in addition, the total amount that may be charged against any public utility under authority of this section for the administrator's representation of the state before agencies of the federal government

in any calendar year shall not exceed two hundred and fifty thousand dollars (\$250,000); provided however, that any remaining balance may be charged against any public utility for any lawful purpose under this section. All moneys collected by the administrator or the commission pursuant to this section shall be paid by him or her monthly to the general treasurer to be added to the public utilities reserve fund.

(c) The division of public utilities shall adopt by regulation, a fee schedule for all telecommunications filings, including initial applications and annual registrations, by telecommunications providers that are not otherwise subject to the provisions of subsection (a) or (b) of this section. The money assessed and paid shall be paid into the general fund and shall not be a part of the public utilities reserve fund.

(d) The general assembly shall annually appropriate such sums as it may deem necessary for the salaries of the commissioners and their expenses incurred in the performance of their duties, and for the operations of the commission and the division and payment of such office expenses and assistance as from time to time may be required. The state controller is authorized and directed to draw his or her orders upon the general treasurer for the payment of such sum, or so much thereof, as may be required from time to time upon receipt by him or her of vouchers approved by the administrator or his or her authorized agent.

SECTION 2. This article shall take effect upon passage.