

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: KENT COUNT WATER AUTHORITY :
APPLICATION TO CHANGE RATES : DOCKET NO. 4142

REPORT AND ORDER

On January 27, 2010, the Kent County Water Authority (“KCWA”) filed a rate application with the Rhode Island Public Utilities Commission (“Commission”) seeking a rate increase of \$1,460,031 or 8.16% to support a revenue requirement from rates of \$19,341,701, a revenue decrease of \$359,992. The basis for KCWA’s request for a rate increase to support a revenue decrease was reduced revenues resulting from a reduction in water sales. If approved, the impact on a typical residential customer using 110 HCF per year would be an increase of \$45.12 per year, from \$552.72 to \$597.84, or 8.2%. On February 10, 2010, the Commission suspended KCWA’s proposed rate increase.

The current rate case filing represents KCWA’s fourth general or abbreviated rate case filing in the last nine years. The following table provides a brief history:

Docket No.	Date Filed	Increase Requested	Increase Allowed	Authorized Revenue
3311	3/30/01	\$3,094,955	\$1,820,684	\$13,956,116
3660	1/14/05	\$3,172,794	\$3,172,665	\$16,545,493
3942	3/31/08	\$5,464,556	\$3,423,233	\$19,798,031
4142	1/27/10	\$1,460,031	\$1,460,031	\$19,341,701

On February 4, 2010, the City of Warwick (“Warwick”) moved to intervene in this matter. No party objected and Warwick’s Motion was granted pursuant to Commission Rule of Practice and Procedure 1.13(e).

I. KCWA'S DIRECT

In support of its filing, KCWA submitted the pre-filed testimonies of Timothy Brown, P.E., General Manager of KCWA, and Christopher Woodcock, an outside consultant. In his pre-filed testimony, Mr. Brown presented a table showing recent water sales from FY 2005 through FY 2009. According to this table, KCWA had experienced a reduction in water sales from each year to the next. He opined that the reason for the reduction was caused by KCWA's "demand management methods, loss of large customers, wetter than normal years and generally less water use by our customers."¹ Mr. Brown noted that KCWA's most recent rate year from the prior docket had ended on October 31, 2009. He proposed utilizing that period as KCWA's test year, with one adjustment to the revenue requirement to reflect a reduction in wholesale water purchases from Providence Water Supply Board.² The proposed rate year is March 1, 2010 through February 28, 2011.³

Mr. Brown explained that as a result of reduced revenues, KCWA has been unable to fully fund its Infrastructure Replacement ("IFR") Account or its Operating Revenue Allowance. However, KCWA was not requesting any increases to these accounts.⁴ Related to the funding and management of its restricted accounts, Mr. Brown advised the Commission that, consistent with the Commission's suggestion in the prior docket, KCWA has met with its investment advisors to review its current investment

¹ KCWA Exhibit 2 (Pre-Filed Testimony of Timothy Brown), p. 2.

² *Id.* at 2-3; Commission Exhibit 2 (KCWA's Response to PUC DR-1-1).

³ Commission Exhibit 2 (KCWA's Response to PUC DR-1-2).

⁴ KCWA Exhibit 2 at 4-5.

policy. After this review, Mr. Brown stated that he believes the 1994 policy meets the request of the Commission.⁵

In response to a Commission Data Request, KCWA summarized the measures, other than deferring funding to the IFR and Operating Revenue Allowance restricted fund, that it had taken to manage the reduced consumption. Mr. Brown indicated that KCWA had frozen all non-essential expenditures and all expenditures must be approved by him, regardless of the amount. He indicated that KCWA has sufficient supplies on hand for public safety and emergency work and that all leak repairs are being conducted by KCWA employees during the normal work day, if possible. He stated that this reduces emergency and overtime expense. KCWA had limited outside services to paving and information and technology, utilizing its employees for all other work. IFR work had been frozen except for ongoing construction and no new construction had been commenced. KCWA had frozen open positions, except for essential functions. Finally, KCWA focused more on collections to assure timely payments of billings.⁶

In his testimony, Mr. Woodcock explained that due to the reduced consumption experienced by KCWA, it had not been able to collect the revenues approved by the Commission in Docket No. 3942 which had a rate year of November 1, 2008 through October 31, 2009.⁷ He explained that in preparing this rate filing, KCWA has revised the usage to match actual sales for the Docket 3942 rate year and modified the cost of purchased water to reflect the actual purchases from Providence Water Supply Board during the same period. He stated that due to the fact that the Docket 3942 rate year had

⁵ *Id.* at 4.

⁶ Commission Exhibit 1 (KCWA Response to PUC DR-1-6).

⁷ KCWA Exhibit 3 (Direct Testimony of Christopher Woodcock), p. 3.

so recently ended, KCWA has proposed to apply these changes to the revenue requirement and rates allowed by the Commission in Docket No. 3942.⁸

The reduction to expenses related to purchased water resulted in a reduction to the revenue requirement of \$359,992. Mr. Woodcock stated that no other adjustments had been made to reflect “likely” future increases to expenses. He stated that “[b]y using actual purchases and sales with no further adjustments we hope that there will be no issues regarding projections” for the rate year. Finally, he stated that it was KCWA’s hope that its approach would assist in expediting the Commission’s review of KCWA’s request.⁹

II. WARWICK’S POSITION STATEMENT

On March 19, 2010, Warwick objected to KCWA’s request, stating that KCWA had not presented any evidence to show that KCWA had reduced pro forma expenses during the proposed rate year and proposing that KCWA could reduce expenses and avoid a rate increase without compromising the public health, safety or welfare.¹⁰

III. DIVISION’S DIRECT

On March 24, 2010, the Division of Public Utilities and Carriers (“Division”) submitted a Memorandum of Thomas Catlin, its consultant, dated February 8, 2010. Mr. Catlin stated that he had reviewed KCWA’s filing and concluded that “KCWA has appropriately calculated the rates required to generate the revenue requirements approved in Docket Nos. 3942 and 4067 at the reduced sales level.”¹¹

⁸ *Id.* at 4.

⁹ *Id.* at 5-6.

¹⁰ Warwick Exhibit 1, Position Statement, 3/19/10.

¹¹ Division Exhibit 1, Memorandum of Thomas Catlin dated 2/8/10 at 1.

IV. HEARINGS

After duly published notice, on April 7, 2010, the Commission conducted evidentiary hearings at its offices at 89 Jefferson Boulevard, Warwick, Rhode Island.

The following appearances were entered:

FOR KCWA: Joseph McGair, Esq.

FOR CITY OF WARWICK: Peter Ruggerio, Esq.

FOR THE DIVISION: Leo Wold, Esq.
Assistant Attorney General

FOR THE COMMISSION: Cynthia G. Wilson-Frias, Esq.
Senior Legal Counsel

KCWA presented Mr. Brown and Mr. Woodcock for cross-examination. Warwick and the Division did not present any witnesses. On cross-examination, Mr. Brown expressed hope that summer consumption would reverse the decline in sales, but stated that even if the summer of 2010 resulted in a drought, there would not be enough consumption to cover the loss in revenues during the prior rate year.¹²

He stated that both he and Mr. Woodcock had reviewed the expense operations of KCWA. He indicated that KCWA's Operations and Maintenance ("O&M") costs during the rate year are expected to be fairly consistent with the prior year.¹³ He noted that some expenses may be slightly lower due to four (4) unfilled positions and the items discussed in his response to Commission's Data Request 1-6, referenced above.¹⁴ In discussing employee benefits, Mr. Brown noted that KCWA still does not require a health care

¹² Tr. 4/7/10 at 13.

¹³ *Id.* at 13-14, 16.

¹⁴ *Id.* at 19-20.

premium co-share from its employees.¹⁵ However, he indicated that it would be a topic of discussion at an upcoming KCWA Board meeting.¹⁶

Mr. Brown testified that personnel costs make up approximately ten percent (10%) of KCWA's budget, more than fifty percent (50%) is made up of fixed costs including IFR or bonded capital.¹⁷ He noted that these fixed costs do not change relative to the amount of water sold. Thus, in response to Warwick's position regarding KCWA's filing, he stated that KCWA did adjust for reductions to purchased water and the only other place he could really think of may be from chemicals, but such reductions would be very small.¹⁸

Mr. Woodcock explained that KCWA's rationale for utilizing the prior rate year as the test year with updated consumption numbers and a reduction to the purchased water expense without other adjustments was to avoid the filing of a full, rather than abbreviated rate case. He testified that in his experience reviewing budgets and expenses for water utilities, expenses tend to rise over time rather than fall. He specifically noted that the cost of chemicals and any other commodities that are energy dependent have increased significantly over the past several years.¹⁹ He testified that if consumption continues to decline over time, the budget cuts made by KCWA will be unsustainable if KCWA is to continue providing safe and potable water. Thus, he opined that more rate increases would be necessary. However, he noted that if consumption is reduced, bills may not increase.²⁰

¹⁵ *Id.* at 12, 23.

¹⁶ *Id.* at 29-30.

¹⁷ *Id.* at 31-32.

¹⁸ *Id.* at 38-39.

¹⁹ *Id.* at 48-51.

²⁰ *Id.* at 62-63.

Mr. Woodcock recognized the possibility of revenues exceeding that which was allowed and proposed that the Commission continue the same condition imposed in Docket No. 3942, namely, “[i]f revenues exceed the total allowed rate revenue by more than 3%, the full amount of the revenue in excess of the allowed rate revenue shall be deposited to the restricted operating revenue reserve.”²¹ Mr. Woodcock indicated that the Commission could choose any twelve-month period upon which to base its review of the revenues, but agreed that the rate year for each utility may make the most sense.²²

COMMISSION FINDINGS

At an open meeting on April 27, 2010, after reviewing the evidence, the Commission approved a decrease of \$359,992 in KCWA’s revenue requirement, but allowed an increase in rates such that KCWA will have the opportunity to collect an additional \$1,460,031 or 8.16% from rate revenues for a total revenue requirement from rates of \$19,341,701. On April 27, 2010, the Commission also approved a rate change in Docket No. 4016, In re: Providence Water Supply Board Motion to Reopen, which affected KCWA’s wholesale rates. This led to a decision by the Commission to approve KCWA’s Request to Pass Through Wholesale Rates in Docket No. 4067. The result of the Commission’s decisions in Docket No. 4067 and the instant docket is that a typical residential customer will see an increase of \$13.55 per quarter from \$127.34 to \$140.89.

Although KCWA filed for a decrease to its revenue requirement, a decline in sales from that upon which rates were previously set for the period November 1, 2008 through October 31, 2009 caused KCWA to realize lower than allowed revenues. The Commission notes that in this case, the extent of the difference in consumption compared

²¹ *Id.* at 53-54.

²² *Id.* at 56, 57.

to those upon which rates were based on Docket No. 3942, approximately 233 million gallons, caused a significant shortfall in revenues. Additionally, the rate year from Docket No. 3962 ended only three (3) months prior to KCWA filing the instant case. Therefore, the Commission finds KCWA's proposal to base the rate year expense in this case on the prior year's approved revenue requirement, adjusted for actual sales and reduced wholesale water purchases to be reasonable. While KCWA has made efforts to control spending and manage its operations within the constraints of the shortfall, the Commission recognizes that these cuts and deferrals are not permanent solutions.

As in Docket No. 3942, given the use of a single year of consumption for setting rates, KCWA recognized the possibility of revenues exceeding allowed expenses. Therefore, the Commission will continue to impose the following condition on KCWA: if revenues exceed the total allowed rate revenue by more than three percent (3%), the full amount of the revenue in excess of the allowed rate revenue shall be deposited into the restricted operating revenue reserve. Total allowed rate revenues will initially be set at the rate revenues allowed in this proceeding. This amount shall be adjusted annually based on the annual change in the Consumer Price Index (CPI) for the Northeast. In addition, any increase in revenues approved for the pass-through of the Providence Water Supply Board rate increases shall also be recognized. The balance in the restricted Operating Revenue Allowance shall be limited to six percent (6%) of total rate revenues. KCWA shall file a report by November 1 of each year that presents the revenues for the prior fiscal year and the level of restricted operating revenue reserve. If the restricted Operating Revenue Allowance balance exceeds six percent (6%) of total revenues, the Commission will open a proceeding to address the appropriate adjustment to the

KCWA's rates. Because KCWA already has a mechanism in place setting forth an agreed-to annual review, the Commission will not change it in this docket.

Accordingly, it is

(20162) ORDERED:

1. Kent County Water Authority's Abbreviated Rate Filing of January 27, 2010 is hereby approved.
2. Kent Count Water Authority will receive a total cost of service of \$19,695,960, which equates to a net revenue requirement from rates of \$19,341,701, effective for usage on and after May 1, 2010.
3. Kent County Water Authority shall continue to restrict the following amounts collected through rates: IFR - \$5,400,000, O&M Reserve - \$193,620, R&R Reserve - \$200,000, Debt Service - \$3,932,319, Capital Equipment - \$100,000 and Operating Revenue Allowance Stabilization Fund - \$291,657.
4. Kent County Water Authority shall continue to file each November 1, a report that presents the revenues for the prior fiscal year and the level of restricted operating revenue reserve.
5. Kent County Water Authority's compliance tariffs filed on April 29, 2010, in conjunction with the Commission's decisions in Docket No. 4067 and 4142 are hereby approved.
6. Kent County Water Authority shall comply with all findings and instructions contained in this Report and Order.

EFFECTIVE IN WARWICK, RHODE ISLAND, PURSUANT TO OPEN MEETING DECISIONS ON FEBRUARY 10, 2010 AND APRIL 27, 2010. WRITTEN ORDER ISSUED OCTOBER 12, 2010.

PUBLIC UTILITIES COMMISSION



Elia Germani

Elia Germani, Chairman

Mary E. Bray

Mary E. Bray, Commissioner

Paul J. Roberti

Paul J. Roberti, Commissioner

NOTICE OF RIGHT OF APPEAL PURSUANT TO R.I.G.L. SECTION 39-5-1, ANY PERSON AGGRIEVED BY A DECISION OR ORDER OF THE COMMISSION MAY, WITHIN SEVEN DAYS (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.