

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

HEARING IN RE:

DOCKET #3942

KENT COUNTY WATER AUTHORITY

BRIEF ON BEHALF OF  
KENT COUNTY WATER AUTHORITY  
TO THE  
PUBLIC UTILITIES COMMISSION

Joseph J. McGair, Esq.  
PETRARCA McGAIR, INC.  
797 Bald Hill Road  
Warwick, RI 02886  
(401) 821-1330  
October 17, 2008

## **I. INTRODUCTION**

On March 31, 2008, the Kent County Water Authority ("KCWA") filed a rate application with the Rhode Island Public Utilities Commission ("Commission"), Docket No. 3942, seeking a rate increase of \$5,464,560.00 or thirty-five (35%) percent. On April 9, 2008, the Commission suspended the KCWA rate application increase for effect May 1, 2008. The notice of change of rate to the customers was sent on April 4, 2008. A public hearing was held on July 10, 2008 at 7:00 pm at the Commission and September 21, 2008.

## II. PREAMBLE

Public comment by elected officials, office seekers, former officials and a few customers was heard by the Commission on July 10, 2008 and on September 21, 2008.

Their testimony centered on the rate increase and the effect it would have on themselves, and, or, the community. Much misinformation was rendered by Thomas K. Jones, office seeker, especially with regard to the recommendations of the Senate Committee to Study the Kent County Water Authority Report (March 2007) and Senate Committee on Environment and Agriculture and Senate Committee on Government Oversight, Water for Tomorrow: From Planning to Implementation: Findings and Recommendations from the Joint Hearings on Water Related Issues of June 6, 2007. He stated that the reports would confirm his unsubstantiated diatribe that Kent County Water Authority was mismanaged. The Commissioners have reviewed the legislative reports and assuredly, have arrived at the opposite end of Jones' spectrum. In fact, the reports do not even hint of any mismanagement. Kent County Water Authority would ask the Commission to dismiss these attempts to subvert these proceedings by specious means and Kent County Water Authority would ask the Commission to rebuke such unconscionable conduct.

The Kent County Water Authority sympathizes with the constraints on the municipalities and their leaders who spoke during the comment phase but the Commission need not be reminded that the Authority cannot subsidize those particular municipal budgets especially when all are aware that municipal taxes increase on an annual basis which eclipse the increase sought here. The Authority can only seek increases through this Commission. However, any intimations that Authority customers should accept financial responsibility for the Warwick Kent County Water Authority customers is so ludicrous and should not be considered as the differential cost of water for the Warwick Kent County Water Authority customers versus the Warwick water rate differential of \$1,455,835. (COMM 1 Record Request)

The Legislative resolutions which were delivered to the Commission should be deemed by the Commission as imprudent at best and as against separation of powers especially where the Senate has advice and consent over the Commissioners.

### **III. COMPENDIUM OF TESTIMONY** \*

#### **A. PREFACE**

Kent County Water Authority (KCWA) submitted the pre-filed testimony of Timothy J. Brown, General Manager of Kent County Water Authority and Christopher Woodcock, an outside consultant and the Division of Public Utilities and Carriers (DPUC or Division). The City of Warwick entered as an Intervenor on May 23, 2008. Data requests were served and responded to in accordance with the procedural schedule of May 2, 2008. Commission record requests were complied with. In his pre-filed testimony, Mr. Brown stated that KCWA is currently authorized to fund its infrastructure at the level of \$4,805,376 million, but KCWA has not had sufficient revenues to fully fund the authorized amount. He indicated that KCWA proposes that the IFR allowance should be at the necessary six-million-dollar State Department of Health requirement in its approved plan. Mr. Brown testified that the IFR is extremely important to the integrity of the KCWA system since the replacement of 100-year-old infrastructure must be ongoing.

In his pre-filed testimony, Mr. Woodcock stated that the KCWA pro forma revenues from current rates are \$15,845,334, and including miscellaneous revenues; produce total revenue of \$16,192,541. He stated that the test year expenses were \$16,453,811 for fiscal year 2007 and the rate year cost of \$21,657,097.

#### **B. PREFILED TESTIMONY**

##### **Timothy J. Brown Pre-filed Testimony**

Mr. Brown in his pre-filed testimony disclosed the following:

1. The fiscal year of KCWA is July 1<sup>st</sup> through June 30th.
2. The test year is from July 1, 2006 through June 30, 2007.

---

\* This Compendium of Testimony has been prepared in light of the Arnold v. Labelle holding.

3. The rate year is November 1, 2008 to October 31, 2009.
4. The number of KCWA customers is 26,564.
5. The revenue needs for the rate year are \$21,657,097 which is an increase in revenue needs of \$5,465, 556 and a chart was attached which demonstrated the same.
6. The infrastructure program (IFR) was previously funded by the Commission in the amount of \$4.8 million per year and KCWA is seeking an increase of \$1,194,626 to provide \$6 million in the approved IFR plan requirement.
7. The IFR plan (February, 2008) was short by four payments totaling \$1,601,791.00 because of lack of revenue.
8. There are no proposed changes to the \$100,000 per year renewal and replacement equipment fund.
9. KCWA requests \$25,000 per year for required engineering studies.
10. KCWA requests a GIS operator for an estimated salary of \$40,000, excluding benefits necessary to maintain and implement the GIS system.
11. KCWA has 34 employees and is less than needed and only five more positions since Timothy J. Brown was hired in 1998.
12. In the test year salaries are outlined in Mr. Woodcock's schedule 1B as well as the proposed rate year salaries which are necessary to keep a workforce which is understaffed yet provides quality service to the customer.
13. No new bond issues are proposed.
14. KCWA proposed tariff changes to its turn off charge of \$55.00 and to its turn on charge of \$45.00 per occurrence. An enforcement charge for a third violation is \$250, fourth violation is \$500 and the fifth is termination.
15. Seasonal rates would be a demand management tool to help manage peak summer demands; however, KCWA also expressed concerns about the instability in revenues this may cause. The current operating revenue allowance is set at only 1.5% of operating costs (excluding debt and

capital) which provides insufficient protection against decrease revenues in summer when the seasonal rate is the highest. The KCWA included an alternative seasonal rate but only if the Commission provides an operating revenue allowance based upon 5% total rate revenues (later adjusted to 3%).

16. Pursuant to rate order 18316 that KCWA has had two yearly reviews of medical and dental benefits and costs by an independent broker which reduced the renewal coverage to an increase of 4.4%. A savings of \$7,500 resulted in a change in the retiree's pharmacy benefits.

17. In Docket No. 3660 (order 18,316), the Commission modified the compliance reports from semi-annually to every four months and it is impractical regarding construction projects due to winter shut-downs and billing lags behind construction installation. KCWA is requesting that a return to the semi-annual reporting be implemented.

#### Pre-filed Testimony of Christopher P.N. Woodcock

Mr. Woodcock in his pre-filed testimony disclosed the following:

1) KCWA rate year revenue requirement is \$21,657,097 and the current revenue rates will provide \$16,192,541 and KCWA will need additional revenue of 4,464,556 or 34%.

2) The major adjustments are:

a) the full funding of \$6-million IFR requirement.

b) an increase in the operating revenue allowance to five percent of total revenues.

c) inability to fund various reserves required under its bonds.

d) for the recent Providence Water Supply Board pass-through the increase is over \$500,000 when compared to Fiscal Year 2007 actual expense and the rate year.

e) increase in the rate case expense and regulatory assessments is slightly over \$80,000.

f) a water sales decrease as the rate year sale are more than 7.5 less than allowed in Docket No. 3660.

- Fixed charges to debt/trust indenture; O & M must fund at 25% of the operating budget - needs \$500,668 in the rate year.
- The R & R reserve is funded at 1% of net plant value (\$78,515,214 at 6/30/07)
- Capital plans through rate year will add another \$20 million in net plant value (\$98 million).
- The fund would require \$985,152 for the rate year or \$463,332 additional revenue
- Debt service for existing bonds- minimal adjustment from year to year - will use the CY 2009 for rate year
- Commission approved IFR funding in Docket No. 3660 of \$4,805,374; KCWA had insufficient revenue and funded \$4,004,478 in the test year. Schedule 1D shows increase in \$1,995,522. The request is for \$1,194,626 increase over amount allowed in Docket No. 3660 or \$6-million.
- Cost of required \$140,000 and have spread over five years (plan requirements)
- Rate year payroll taxes are 7.5% of rate year salary
- Worker's Compensation insurance 4% (annual increase in labor cost)
- Property and liability insurance 4.9% average increase
- Benefits and pensions-analysis of post expense and will update as able.
- PILOT little change from year to year.
- Labor costs increased 4% from test year.
- CPI 3.32% per year from 2003-2007.
- Operating reserve requesting an allowance of 5% of the total rate revenues.

O&M Reserve- must be equal to 25% of O & M budget fiscal year end and fiscal year not coincide with the rate year and propose an amount equal to 25% of the requested rate year operating costs.

Chemical prices- proposed at twice the rate of inflation and are more energy related costs.

Operating Revenue Allowance - proposed 5% on total rate revenues bifurcated with 1.5% as unrestricted and 3.5% restricted shortfall of revenues with a filing to use funds with Commission approval within 60 days.

Recent Docket Nos. 3818 (Newport) and 3832 (PWSB) show that the Commission has modified its approach to this critical allowance.

Water use – KCWA proposed to use test year sales, as adjusted for large users that are closing (Clariant). This was later adjusted to use the most recent year (FY 2008).

- Clariant announced it was closing its Coventry pigment manufacturing facility and its six meter connections. The projections call for one meter to remain open for Clariant administration functions and the other five meter connections associated with the pigment manufacturing facility to close.

-Amgen has substantially reduced water use of 25% (July - December 2006 rate year) to the same point in 2007 and adjustment was made.

-Cost allocations and rate design: no proposed change but raises the issue with the Commission in that KCWA be allowed to continue 5/8" and 3/4" meters as the same charge.

Seasonal Rate: KCWA is mindful of legislative proposal to address this matter with a proposed seasonal rate. The recommended variable differential alternative providing a similar differential between the peak and non-peak rates (Schedule 13) will be revenue neutral. KCWA is also mindful of the volatility in revenues that accompany a seasonal rate and that the current operating revenue allowance set at 1.5% of operating costs is not sufficient. KCWA will not propose

the seasonal rate if the Commission only provides a 1.5% operating revenue allowance.

## II. Prefiled Direct Testimony of Thomas Catlin, Division Expert

- Utilized a test year corresponding to fiscal year ending June 30, 2007 and rate year twelve months ending October 31, 2009 as basis for determining KCWA revenue requirements.
- Catlin recommended \$2,622,427 which is less than the KCWA proposed \$5,464,556 by \$2,842,129.
- Catlin accepted the Woodcock cost allocation study and indicated that he did not oppose KCWA seasonal rate proposal if the Commission determines that it is a reasonable first step.

### Sales Volumes

- Catlin accepted the Clariant reduction to water sales but not the downward adjustment to Amgen and called for test year increase of \$162,302 and reinstate Amgen on the water protection fee revenue of \$1, 857.

### Service Charge and Fire Protection

Adjust revenue public and private fire charges as increase of \$42,374.

### Chemicals Expense

Adjust to reflect average quantities of chemicals utilized over last four years and reduced projected rate year chemical costs of \$29,989.

### T & D Maintenance

Reduce KCWA expense of \$912,017 by \$252,504.

### General Inflation

Implement the Gross Domestic Product Price Index (GDP-PI) versus the CPI (Consumer Price Index) as more indicative which is \$41,732 on GDP-PI of 5.5% (test year) and is \$60,995 less than \$102,727 proposed by KCWA.

### Enforcement Charges

Moratorium violations - the \$250 (third violation) and \$500 (fourth violation) are excessive and should not apply to odd-even and subject to shut-off/on charges. KCWA should track any revenue received.

### Labor Costs

The 4% increase in wages but overall average increases in each year were only 3.2% which reduces total labor costs by \$35,468 and charged to the O & M by \$39,984 and reductions in payroll taxes is 42,714 for a total reduction to O & M payroll and related costs of \$37,697.

### Health Insurance Costs

- should reflect updated estimate of premiums. Shows a slight increase in the rate year.
- reduce employee insurance costs to reflect a ten percent employee contribution since more prevalent today and comparison with Narragansett Bay Commission.
- (NBC) which was phased in because of unionized and opinion is that 90% of the cost expenses for rate-making reduces expenses by \$45,145 and if KCWA elects not to require it, cover differential through operating revenue.

### Purchase Water Costs

Agrees that use of test year purchased water volumes as reasonable. Disagrees with Clariant adjustment and reduce 4.14% total test year to \$172,742 KCWA adjustment to Amgen purchase with reduction is accepted as \$63,798.

### Insurance Costs

Not propose any adjustment

#### PUC Assessment

A PUC assessment of \$54,800 is a reduction of \$10,855 compared to KCWA with an increase of 3%.

#### O & M Reserve Funding

KCWA agrees O & M Reserve required funding to 25% of operating budget by the end of each fiscal year and is significantly behind and requested \$500,668. The required funding based on Division's operating expenses is \$2,246,436 and the reserve balance is projected at \$2,153,575. The required rate year funding is \$92,861 and is \$407,807 less than \$500,668 requested. It is expected that KCWA will deposit the \$255, 335 to level fund the O & M Reserve.

#### R & R Reserve Funding

Agreed with KCWA position.

#### Infrastructure Replacement Funding

In order to moderate the rate increase - recommends increase to \$5.4-million rather than \$6-million requested because of economic strains on consumers.

#### Operating Revenue Allowance

KCWA proposed 1.5% of unrestricted revenue and 3.5% restricted if revenues are below expected levels and would file and ask Commission to rule within 60 days. Mr. Catlin recommended an operating revenue allowance of 1.5% of total rate revenues but noted that given recent Commission decisions, if the Commission authorized a 3% operating revenue allowance that he recommends that 1.5% be unrestricted for use in the event that revenues are more than 0.5% below the allowed level. Also, recommend a limit of 6% of rate revenues be set on the level to which the restricted allowance monies are allowed to accumulate and assume 1.5% of revenue is restricted is equal to four years (approximately)

of restricted revenue allowance collections - if not used to meet revenue shortfalls and need to continue to 1.5% restricted should be re-evaluated.

#### Cost Allocation Rate Design

In agreement with the Woodcock approach.

#### Seasonal Rates

Does not oppose.

#### Rebuttal Testimony of Timothy J. Brown

##### Seasonal Rates

- the proposal was to introduce seasonal rates on a limited basis to help curb peak demands.
- it cannot be truly implemented until monthly billing. KCWA was compelled to attempt especially with the legislative direction.
- KCWA cannot implement seasonal rates without a sufficient operating revenue allowance.

##### Enforcement Regulations

KCWA will continue with its current procedure for enforcement and will forego its proposal.

##### Health Insurance Costs

KCWA is sole determinant of coverage pursuant to its enabling legislation and the Catlin 10% contribution is contrary to a sound business model where benefits are considered in lieu of payroll. The need for talented workers is great and KCWA has an excellent workforce. KCWA has been aggressive in its pursuit of health benefits and increased co-payments and kept cost 8% to 11% below state payment levels and KCWA vehemently disagrees with the Division on the 10% contribution.

### Chemical Costs

KCWA disagrees as the increase in chemical costs is well beyond prediction based upon the world demand especially potassium hydroxide and should disallow the reduction of \$29,980 and restore to cost of service.

### IFR Funding

KCWA disagrees with the \$5.4-million increase and continues its request for full IFR funding to \$6-million. The Authority has a successful program and is "catching up" with deterioration. The recent legislative hearings have concluded that infrastructure needs \$800-million in Rhode Island especially with a septem which is over 127 years-old.

KCWA has been unable to keep up with its funding on a monthly basis and is two months behind.

### Rebuttal Testimony of Christopher P.N. Woodcock

#### IFR Funding

Does not agree with Division proposal to reduce KCWA IFR from \$6-million to \$5.4-million. This Division position of "given the economic strains" is in conflict with the statutory mandate of RIGL 46-15.6-1 et seq:

"First, RI state law (Chapter 15.6 Clean Water Infrastructure) clearly stated (emphasis added):

- Water is vital to life and comprises an invaluable natural resource which is not to be abused by any segment of the state's population *or its economy*.
- It is a paramount policy of the state to protect the purity and future drinking water supplies by protecting the infrastructure of potable water.

- It is necessary to take immediate and continuing steps to repair and replace the infrastructure used to deliver water supplies in order to restore water system failures.
- Failure to replace the infrastructure used to deliver water supplies may cause and probably will continue to degrade the quality of drinking water.
- The potable threat to public health caused by unsafe drinking water *outweighs the economic costs* for the construction of the potable water infrastructure replacement.
- The objectives of this chapter are....(that said infrastructure)...plans and their execution achieve and insure that the investment of the public health in such facilities *is not eroded*.
- The Rhode Island Public Utilities Commission...*shall permit* for just and reasonable infrastructure replacement in the portion of the water supplier's rate structure to comply with this chapter and shall allow the water supplier to add this required funding to its rate base in accordance with this chapter.

The Public Utilities Commission is provided a copy of the infrastructure plan for review and comment. Based on the response to KCWA 1-13, there were no comments from the Division; there is no evidence in this docket that the infrastructure replacement requests by KCWA are not "just and reasonable".

Lastly, the current economic strains should not play a role in this proceeding, and certainly not if they violate state law or are contrary to stated policy. As indicated in the response to Commission data request 1-11, the residents of Kent County have a lower percentage of population below the poverty level than the rest of the State of Rhode Island and the nation as a whole. The water bill for a typical resident will be under \$600 per year (less than \$50 per month) under the rates we propose. That is just over 1% of the medium household income in Kent County and less than half the level deemed affordable.

Based on the response to KCWA 1-12 to the Division, there was no analysis to support the Division's claim of "economic strains on consumers", particularly as it may apply to consumer's water bills. The Division's claimed increase to the typical resident's water bill of \$160 per year or \$0.44 per day is minimal. The KCWA proposed water rate for residential customers is \$0.00658 per gallon of water. The daily cost of water to an average consumer is less than the cost of *one half gallon* of gasoline or fuel oil.

Taking into account all the Division's recommended adjustments, the increase to a typical residential customer (TSC-14) is \$18.92 per quarter or \$0.21 per day. The Authority's proposed increase (Woodcock rebuttal schedule 10) is less than \$33 per quarter or about \$0.36 per day. The total of all the Division's proposed changes would save the typical residential customer only \$0.15 per day. The Division's proposed reduction to the IFR funding would save the typical residential customer less than *\$0.05 per day* on their water bill! A customer could save this much on their water bill by simply reducing water use by only 7 gallons per quarter or a little more than one cup per day! This is hardly the kind of savings needed to reduce the economic strain on customers.

#### Operating Revenue Allowance

KCWA has reduced its proposed 5% to an operating revenue allowance of 3% of rate revenues based upon the Catlin Testimony and agrees to limit the restricted portion of the allowance to 6% of rate revenues and KCWA should report (11/1) to the Commission each year the revenues for the prior fiscal year and the level of the restricted portion of the operating revenue allowance fund. If it exceeds 6% of annual revenues, a docket could adjust the same. Agrees that if active revenues in rate year exceeded by more than 1% any excess revenues be placed in the restricted portion. However, pass-through issues must be considered and should be factored into allowed revenues and Woodcock disagreed with the GDP-PI index in that CPI is more accurate for the Northeast

and that the excess amount needs to be more than 1% and should be at minimum 1.5% (so-called windfall) and recommends it be more than 4%.

#### Water Sales Purchase

Proposed to reduce sales actual FY2008 for Clariant Corporation and proposes no change for Amgen.

#### Labor Costs

Agree with Division that despite historical annual increases of 4%, the Division position of 3.2% will be accepted.

#### Health Insurance Costs

As indicated in KCWA response to Division data request 1-23, KCWA had revised the medical Blue-Cross, dental, and retiree insurance costs based on information received subsequent to filing this case. These are reflected in Mr. Catlin's TSC-6 and KCWA agrees to those revisions.

The Authority does not agree with the Division's recommendation to reduce medical insurance costs for a 10% co-pay. The increase in the employee co-pay for NBC was phased in. That KCWA is not unionized is no reason to penalize KCWA or its employees (see response to KCWA-9). It is disingenuous to suggest that the Division's recommendation is not a requirement that KCWA increase the contribution. To suggest that it simply be taken out of the operating revenue allowance has the effect of reducing that allowance by 0.3% as of instante.

It is rather inconsistent to suggest that KCWA could just increase the employee's co-pay without any adjustment to salaries. The Division has already suggested reducing the salary increases and agreed to by KCWA. Now it is asking employees to further reduce their take-home pay. Using the average health insurance cost of \$13,350 per employee (see Division's response to KCWA-10), a 10% co-pay would cost the employees of KCWA \$1,335.00 per year.

Suggesting this level of pay reduction is somewhat surprising when the Division suggested that \$160 per year will add to the economic strain of consumers (see response to KCWA-12). The employees of KCWA are consumers as well.

### Chemical Costs

Mr. Woodcock did an analysis of use per gallon on Page 2 of updated Schedule 1E and derived a value for gallons or pounds of each chemical used per millions gallons and applied to the average.

- On Schedule 1D (Page 1), he applied the current price and added transportation costs and inflation for one year.

The Authority was recently notified of a significant increase to the cost of potassium hydroxide. The price has more than doubled from the \$0.2006 used by Mr. Catlin to \$0.50 per pound. Large increases to potassium hydroxide are being experienced by water suppliers around the country. The price is being driven by increased energy costs as well as large increases in demand for potassium for fertilizer, particularly in Asia. Many of Mr. Woodcock's clients have seen doubling and tripling of chemical budgets this year.

### T & D Mains Maintenance Expense

KCWA agrees in part with Catlin's adjustment, but has updated values that change his final result. Mr. Catlin calculated a four-year of non-labor costs associated with transmission and distribution main maintenance. In doing his calculation, he did not have a full year of costs for FY2008 and had to estimate these for May and June of 2008. Woodcock was able to get the actual costs for these months and get the full actual cost for FY 2008. These are shown on Page 2 of Schedule 1E.

KCWA made one other adjustment to this item that Mr. Catlin did not. Because KCWA used a four-year average of expenses, the impact of inflation since 2005 should be taken into account. To the revised average cost, KCWA added three

years of inflation to go back to the midpoint of FY 2006 and FY 2007. This too is presented on Schedule 1E.

### General Inflation

Mr. Catlin has accepted the use of two times the CPI index for power and chemical related cost increases. As discussed in direct testimony, chemical costs are energy dependent. KCWA has agreed with Mr. Catlin for this docket to use the GDP-PI for the other items.

Because inflation has been growing in the past few months, Woodcock updated the CPI-Northeast values through the July 2008 index released by the Bureau of Labor Statistics. The revised CPI index is:

<u>CPI Index for July - Northeast Urban</u>		
<u>Year</u>	<u>Index</u>	<u>% Change</u>
2004	201.0	
2005	207.9	3.43%
2006	217.5	4.62%
2007	221.9	2.04%
2008	234.5	5.68%
average		3.94%

As he had done in his direct testimony, and as was accepted by Mr. Catlin, Woodcock doubled this rate of increase for power related items (Pumping Fuel and Power) for 2.33 years from the test year to the rate year. Because chemical prices were increased to the current price, he only increased these for one year at twice the CPI-rate. In accepting the GDP-PI for other items he asked that it also be updated to reflect the most recent inflation values. As he does not have access to the Blue Chip Economic Indicators used by Mr. Catlin, he hoped that Catlin can provide this in his surrebuttal testimony.

### PUC Assessment

KCWA agrees with the proposed adjustment of Catlin.

### Cost Allocation/Rate Design

KCWA continues to advocate a seasonal rate as long as the Commission provides the Authority with at least a 3% operating revenue allowance on rate revenues. The Authority believes that water resources in the State of Rhode Island must be sustained, and as the stewards of this resource, the Authority should promote wise water use among its customers. The legislature has considered seasonal water rates in its last two sessions; KCWA staff is aware that seasonal rates will be required in the future.

The KCWA initial step with a seasonal rate structure may not be the ideal, but it is appropriate and should be approved by the Commission. This first step is better than none. As the Authority metering and billing programs improve over the next few years the seasonal rate can be enhanced.

### Thomas S. Catlin Surrebuttal

Mr. Catlin noted that there are only four issues which remain between the Division and KCWA with regard to the Authority's revenue requirements. These include: IFR funding; the operating revenue allowance; employee contributions to health insurance; and O & M reserve funding (which is simply related to the cost of health insurance).

With regard to IFR funding, Mr. Catlin continues to support his initial recommendation, and did not address this issue further in his surrebuttal testimony.

KCWA disagreed with Catlin's recommendation that the employee health insurance premiums included in rates be reduced to reflect a ten-percent employee contribution toward medical premiums. As with IFR funding, he continues to support his initial recommendation, and did not further address this issue in his surrebuttal testimony.

### O & M Reserve

In his direct testimony, Catlin recommended that the amount that is included in rates for funding the O & M Reserve should be reduced by \$255,325 to reflect an increase in the Reserve balance. This recommendation was based on the expectation that KCWA would increase the level of funds in the Reserve to the level required by its bond indenture for FY 2008 prior to the rate year that begins five months into FY 2009. That the annual funding of \$199,691 that he is recommending is consistent with the funding of \$210,000 included in KCWA FY 2009 budget.

KCWA disagrees with Mr. Catlin.

### Operating Revenue Allowance

While Catlin continued to recommend an operating revenue allowance of 1.5% on total rate revenues, Mr. Catlin stated that the appropriate operating revenue allowance is a matter of Commission discretion.

Woodcock accepted Catlin's recommendation that a limit of six percent of rate revenues be placed on the balance of restricted funds with the clarification that rate revenues should include those that result from the pass-through of PWSB rate increases and he agrees with that clarification. Mr. Woodcock's procedure for reporting revenues and the level of the restricted funds and addressing any excess acceptable.

Woodcock also proposed several clarifications and modifications to Catlin's proposal that when actual revenues exceed allowed revenues by more than one percent, the excess be added to the balance of the restricted operating revenue allowance. First, he notes that allowed revenues used in making this determination should account for pass-through increases. He agrees with this clarification.

As part of Catlin's recommendation for determining excess revenues, he proposed that between rate cases, the allowed revenues be indexed to account for inflation based on the GDP-PI. Mr. Woodcock proposes that the CPI for the Northeast be utilized instead. Because separate adjustments would not be made

to individual elements of the revenue requirements between rate cases, Catlin finds Woodcock's proposal acceptable.

Finally, Woodcock argued that the one percent threshold that Catlin proposed for determining excess revenues is too small. Based on a typical variation in annual sales of three to five percent, Mr. Woodcock proposed that the threshold be set at four percent. That is, if actual revenues exceed allowed revenues plus four percent, the excess would be added to the restricted portion of the operating revenue allowance.

If the Commission elects to increase the operating revenue allowance to three percent of rate revenues, Mr. Catlin's purpose in proposing the threshold on excess revenues is to provide a balance between what happens when revenues fall short of what is allowed and what happens when they exceed what is allowed. After considering the Woodcock testimony, Mr. Catlin agrees that a threshold equal to a one-percent excess is too small. However, considering that it has been proposed that KCWA be allowed to utilize the restricted funds if revenues fall more than 1.5 percent short of the allowed level, Mr. Catlin believes an excess threshold of four percent is too high.

It is Catlin's recommendation that the threshold for determining excess revenues be set at three percent above the allowed revenues. This is the low end of the range of variations in sales identified by Mr. Woodcock. In addition, because rate year revenues have been adjusted to exclude all revenues from Clariant Corporation's pigment manufacturing facilities, any revenues received from those operations would constitute a potential windfall to KCWA. Therefore, to the extent rate year revenues are in excess of the allowed revenues, any rate year revenues from Clariant's pigment manufacturing facilities should be treated as excess and added to the restricted portion of the operating revenue allowance.

#### Rate Design

The Division does not oppose the KCWA seasonal rate proposal.

## B. HEARING TESTIMONY

Timothy J. Brown

Cross-Examination - Wold

Page:

52 P3 of Rebuttal discuss DPUC regarding Health Insurance.

53 Newspaper articles re: employee contributions have increased – contributions for Health Coverage.

54 Mr. Brown stated that KCWA:

- Would need a commensurate adjustment to payroll if 10% contribution.
- Is not aware of studies as to New England or Rhode Island comparison salaries as to KCWA.
- He had no knowledge concerning Narragansett Bay Commission as to whether it increased wages when employees were to contribute.

Mr. Brown stated that KCWA employees pay more for the following:

56 50% more for physician visits

- 2.5 times more for specialists
- 5 times more for urgent care
- 4 times more for emergency
- 7, 30, 50, 75 prescription vs. 5, 12, 30

58 \$4.8-million approved by PUC - 2.5 years (last rate filing)

- Never funded since debited IFR account as it has been short of funds because of lack of revenue.

59 The Department of Health has not notified, addressed or rejected the plan as being out of compliance for non-payment.

Wilson Frias

64 Mr. Brown said the typical KCWA residential customer uses 11,000 C/F which is higher than other users in Rhode Island

65 There probably is accountable because of Summer/landscaping and being a bedroom community

- 66 Test year fiscal year end 6/30/07
- Rate year 11/1/08 - 10/31/09
  - No Board member receiving healthcare
  - Board compensation is set by the statute at
- 67 \$3,000 per year
- The proposed waterpark will not use CIP/IFR funds and all will be paid by the waterpark
- 68 That Route 2 is not part of the Capitol Improvement program at this time. That with the water park preliminary estimates only to KCWA and produced.
- 69 Were under the maximum day plus fire conditions as well as the average day conditions and that there was sufficient surplus within the system. The average day demand for 120,000 gallons a day and maximum day of 224,000 or 240,000 gallons with no adverse impact.
- 70 Mr. Brown has not seen the final drawings.

Commissioner Holbrook

- 70 Mr. Brown stated that the final approval still needs to be completed for the waterpark since the preliminary approval has lapsed as it was only granted for six months by the Board.
- 72 Mr. Brown stated that after the enforcement proposal of moratorium and restrictions was withdrawn on the rebuttal testimony.
- 73 However, that the turn off and turn on charge requests remain.
- 75 The Executive Summary of the Starweather & Shepley report May 2008 was the most current review of KCWA healthcare and was produced.

Mr. Brown stated that the current meters are obsolete and can no longer be purchased and the Authority is using ones out of inventory at this point

Wilson - Frias

KCWA has not lobbied since the PUC has ordered the same.

- 81 That KCWA does not commit to an IFR contract for construction unless the funds are in the restricted account.

- 83 Mr. Brown stated that the IRF is renewal and replacement by statute and capital program is for transmission storage and supply which could include a new and/or refurbished pumping station.
- 86 KCWA agreed to Mr. Catlin's adjustment for employees salaries from 4% wages to 3.2%.
- 86 The authorized 4.8 million for IFR pursuant to the last rate order and the Authority has not had the funds to put the 4.8 million dollars.
- 88 As to KCWA funding employee wages, Mr. Brown stated that in 2006 that there was a new payroll "stepladder system" and adjustments were made to that system to put individual employees into different categories which also included annual certifications for both treatment and distribution and longevity in order to fit the employees into categories and years of service and that was the reason for the 6.4% change in the payroll system.

#### Nault

- 89 Regarding the GIS and electronic plans the funding sought for this new employee as Mr. Brown stated that he needed the employee to do all the work of updating that program as well as keeping it up to date both in the field as well as
- 90 in the office and auto cad and GPS responders.
- 91 The graphical information system will be utilized on all the records Dated back well over 100 years and especially since there is a Concern whether they are correct.
- 92 The O & M reserve would be fully funded within a year. The only Amount remaining was this year contribution and that the previous Years' contributions were just recently funded.
- 93 The O & M reserve itself has to be funded by the end of the Fiscal year by a certain percentage of the O & M which is 25%.
- 94 The meter replacement program will be proposed in a future rate Case as obsolete.
- 95 The program was started in the late 80's and 90's and that the system Would be replaced certainly in the next fiscal year at least for reading Devices. The regulations also require after 20 years that 10% of the System needs replacement each year.

Wilson - Frias

- 97 Concerning the new meters with the radio frequency when installed
- 98 The meter readers would probably perform call backs, access program, hydrant maintenance and these employees are duly certified for distribution as well as treatment
- With regard to the turn on charge of \$50 – Mr. Brown stated that it Was insufficient and it came from a very old rate case in the 90's
- 99 His proposal was \$55 to shutoff and \$45 to turn back on.
- 101 With regard to a member of the public who stated that it was 1.2 million to paint fire hydrants – Mr. Brown stated that it Was not part of the rate case and he was unaware of where That statement came from. He stated that it may have come From a previous bid for hydrant removal of lead paint and painting Which were extremely high bids and that was never included in any Rate hike and the Authority has decided to encapsulate the existing Coating with employees labor.
- 103 Mr. Brown stated that there is some literature that has been published On odd and even watering may increase water usage, however, he Stated it is not a true conservation device but a demand management Tool which will continue to be utilized as it actually has an effect on High demand periods.

Commissioner Holbrook

- 104 That there has not been any difficulty in 2000 but that since 2001 there Has been any difficulty in meeting demand.
- The 5.2 million contract recently signed had funds available to pay that Out and that it should be paid out in full in 1 ½ years.
- 106 Investment balances of approximately 38 million dollars which is Bonded money for capital improvement projects from the 2002 Bond issue.
- 108 The design of the Mishnock Wellfield treatment plant, KCWA is 95% complete with the design and it will be going out to bid as soon as the submission approval from the Department of

Health is received and said funds should be spent during the rate year.

Mr. Brown stated that there had been no positive arbitrage in paying 4.56% in interest charges for combined interest and as of May, 2008 earning 1.3% and 2007 was less than 4%.

- 111 That the Authority does not expect to pay out the entire 38 million in the rate year and that the Authority would not Pay out more than half of the 38 million.
- 114 There is no money set aside for a new Administration building.
- 115 Chemical costs – chemicals are high in the commodity market, potassium hydroxide is excessively high due to the demand that is so great that it is outstripping supply and foreign countries are paying more for potassium for fertilizer.

#### Commissioner Bray

- 116 Mr. Brown stated that a redundant supply line is a water coming from a source of supply and going from an existing booster station which is modified under the IFR program to just north of the Kent County Courthouse and south to Cardi's Furniture which will allow transmission down Route 2 to existing high service transmission main that exists at the booster station near Cardi's furniture in order to bring source of supply from the aquaduct directly into the high service gradient. The intention is to mimic something that was done to the main booster station at Clinton Avenue as putting in dual gradient pumps and that is the meaning of redundant.
- 117 Redundancy also deals with vulnerability

#### Commissioner Holbrook

- 119 The appearance of Kent County Water Authority having \$38 million dollars worth of bonded funds is misleading in that it is necessary for the capital program and those funds were necessary to be in the bond market. Some funds were established by the bond indenture which required money to be in the fund in order to get a bond rating, there has to be no risk to the bond investors or has to be no or slight risk to the Bond investors and it is always been a requirement to raise more Capital than what is necessary in order to become investment Quality and that KCWA has an "A" rating for revenue bonds.
- 121 Infrastructure funds are completely different and are collected and restricted by the Commission. State law R.I.G.L.

46-15-6-1 very particular as to an enterprise fund on how it is set up and approval of the programs.

The plan is forwarded it to the Department of Health and the 6 million dollars is currently in the plan. The problem is that it is for projects that are already outstanding and that the 38 million bond funds can not be used for IFR and can not be used for operation and maintenance

The money requested is additional IFR of 1.2 million to bring it up to 6 million which is the required by the plan.

- 123 Mr. Brown stated, "The potable threat to public health caused by unsafe drinking water far outweighs the economic cost for the construction of potable water infrastructure replacement."

That is the charge by the legislature which requires the KCWA To obtain 1.2 million additional revenue in order to fund the 6 million.

- 125 Mr. Brown stated that he testified before senate and joint Commissions and was asked why the Authority did not have the money to do infrastructure work and Mr. Brown said that no one in the state has done more infrastructure or capital work based upon the size of KCWA.

- 126 Mr. Brown showed a piece of pipe to the Commissioners with Tuberculation in the pipes which there are millions of them in the system and that is what causes the water to be contaminated and is nothing more than mineral deposits but it is also a trap for bacteria and those bacteria traps are what we desperately try to remove from the system.

Mr. Brown stated that the State Legislative Commissions found that this State needs over 800 million dollars in water infrastructure now.

- 127 Mr. Brown also referred to bottled water which he had bought at 75¢ in the Commission building and stated that if he had bought or sold water to anyone in this room for \$6 a gallon which is what it translates to, that they surely would be surprised. Mr. Brown stated that the total water supply to our customers on an average day is \$1.58.

Commissioner Holbrook stated that he wondered what would happen if he were to advertise and say that he pay anyone out there who wants to come in and get the job done for \$1.58 a day to deliver all the water everyone needs, he wonders how many takers there would be and Mr. Brown agreed.

128 Commissioner Holbrook stated that anything that can be done to change the rules so that KCWA is not required to operate in that venue, have millions of dollars sitting with the motor running and further that any delay of issuing the RFP and locking it into a price costs money and also the holding and negative arbitrage is costing them money because it won't buy in the future and that is the time value of money and inflation.

129 Mr. Brown agreed with the Commissioner and said that he loses sleep of the cost of the dollar which has hurt KCWA greatly on the treatment facility. In fact, technology come out of Canada and the Canada dollar has gotten strong against the US dollar which he does not have any control of.

He has proposed in his testimony before the Senate Commission – that the State free up the regulations on clean water infrastructure to allow those funds to be used for other things such as prepayment on Capital programs.

134 Mr. Brown stated that what is not always visible to the public is that operating revenues change from year to year and depends on sales. He reviewed the statement audited report for the year ending June 30, 2007 which included the year 2006 and the operating revenue for 2007 was 16,171,900.00 vs. 2006 of \$17,007,394.00 and there was a considerable downturn in revenues between 2006 and 2007 (\$900,000). Mr. Brown stated that earlier there was a question concerning salary increases and he did make payments to the IRF and he stated that you really would have to look at the operating revenues for those periods of time to make that determination and that seems to be what you are going through this year as well. If you are down four payments under the IFR, it is difficult to make those payments. Mr. Brown is also cognizant of the fact that the customers are down in that in about \$1,500,000.00 not collected with the current billing with only three days left in the month and that the lack of cash flow is also constraining the system.

137 If the KCWA doesn't have sales, Mr. Brown has to freeze expenses periodically within the company including purchases unless it is an absolute necessity.

138 For example, AMGEN was running at a much higher level as part of the problem and because of the wet summer, that revenues have not been coming in.

139 Commissioner Holbrook stated that it is "only fair to allow you to have the revenue to meet that plan and not having the revenue because of your lack of control of the weather is a pitfall and if you have a rainy season or

a dry season you missed your assumption and your consumption be less than it was and you don't have the revenues and so it is another year gone by where things that should have been done won't get done and I am concerned about the long term 5, 10, 15, 20 year effect of annual shortfalls where you fall a little bit behind for a little bit and I for one have promoted some kind of supplemental income reserve and that is what I call it and that would be built into the rate that you are talking about now about five percent, one and a half operating reserve and three and a half percent"

- 140 The Commissioner stated that that 3.5 percent would be what you would refer to as operating of supplemental income to reserve that you can tap only if you review that your consumption is short. If the money doesn't come in they don't get funded and what happens in the long run Rhode Island ends up with another case like our roads and bridges.
- 141 Mr. Brown state that KCWA does not have a fuel adjustment charge as some of the utilities have and that the State has talked about putting some type of change that it provide additional revenue because they do see this problem brewing out there for the water utilities. Mr. Brown stated that KCWA is catching up all the time and if IFR delayed, it is a bigger cost in the future. Mr. Brown also talked about breaks in the system. In December there was a break that cost \$100,000 there was a 12 inch pipe that let go and was on a slope, 200-300 feet of road and we just finally finished paving it. It was very costly and if that pipe had been replaced a pipe that wasn't as poor quality as it was it probably never would have occurred and \$100,000 would have **been saved**.

Thomas Catlin – direct examination by Mr. Wold

- 147 Mr. Catlin stated that there were only three issues that remain between the Division and KCWA.

The first issue dealing with the funding of the O & M reserve has been resolved in that KCWA recently contributed the dollars to the O & M and that he indicated was hoping basically that they would contribute by the time the rates went into effect.

#### Cross examination McGair

- 148 That Narragansett Bay Commission regarding healthcare coverage offers Blue Cross Blue Shield and United Healthcare and he believe that they have vision care and did not know whether they had upper levels of the dental.

149 That NBC has 240 employees and would be in a different category for purchasing power of health care because there are different options available for larger employers.

He did not know the total payroll of NBC or the average pay for each individual. He stated that they have a union with a collective bargaining agreement.

150 And that the Commissioner allowed a phase in of their percentage and what they were paying for healthcare because of their collective bargaining. He did not advocate that KCWA workers be treated differently because they do not have a union. He just thought that there should be some employee contribution.

151 Mr. Catlin did not produce a study or any documents concerning the employee contributions during healthcare.

He agreed that KCWA 4% percent for employee raises were reduced to 3.2% in response to commission data request no. 13.

153 Mr. Catlin could not recall the exact numbers of NBC and copays for doctor visits and could tell whether they were less or similar.

Cross Examination by Ruggiero:

154 He stated that cash funding of the infrastructure replacement is something that is a long standing policy of the Commission.

155 Most regulated utilities perhaps those who aren't regulated are less so because there is no oversight but certainly most regulated utilities at this point have some program in place that seeks to not only to provide capital improvements but also to replace infrastructure.

156 He stated that Kent County Water Authority is a lot more conservative than other utilities since they tend to spend the cash more currently.

157 Most of the municipal water and wastewater utilities that he deals with in Rhode Island have restricted accounts that they use to pay for debt service as money comes in it must be set aside to pay that debt service.

Wilson - Frias

159 Catlin said Providence Water Supply Board lead service replacement is an IFR project. The difference between IFR and the CIP was that the magnitude of the cost of lead benefit formulas as such for the ratepayers over the long-term rather than those in the near term. The programs are

usually smaller and are simply replacing what is already available to the customers.

- 160 Providence Water Supply Board employees are not currently required to make contributions for their health-care premium. Mr. Catlin is not proposing to reduce funding through rates on the premium for dental or retiree healthcare but he is recommending funding that will be equivalent to a ten-percent employee contribution of the Blue Cross medical portion of health benefits.
- 161 Catlin said that the Operating Revenue allowance should be 1.5% given all the other adjustments that have been made in this case and that if the Commission 162 were to approve a larger amount, it should be no more than 3% that was given to Providence Water Supply Board. The recommendation on behalf of the Division that 1.5% be set aside in a separate operating reserve fund to cover any revenue shortfalls in excess of half a percent and to give Kent County Water Authority a little more freedom if they would only have to leave one and one-half percent restricted, then restrict one and one-half of the three percent and only have to tap that if 163 the revenue shortfall is more than a half percent which is less administratively burdensome if they don't have to come to the Commission for a minor revenue shortfall.
- 168 When Kent County made its proposal originally for five percent in this case only dealt with what happens if revenues are short and at this juncture, Mr. Catlin stated, "I have now said that use of a three percent number and Mr. Woodcock has suggested four so we're not that far apart." Any excess should be put in a restricted reserve account only if it exceeds three percent.
- 169 Catlin: "I am saying if it's -- you can collect an extra three percent and you get to keep it, but if it's more than three percent, put it aside, put it in that restricted fund."
- "Mr. Woodcock and I are both in agreement that that restricted fund gets to be an amount equal to six percent of revenues, including all pass-throughs for the Providence Water increase, whatever Commission allowed revenues are, if it gets to the point where it's more than six percent, then they would notify the Commission and the Commission could make a decision that we don't need to keep collecting that right now because it's exceeded that threshold, but they would make a filing with the Commission to tell them that's what's happened."
- 170 "In fact, they would make annual filings telling the Commission what the reserve fund looks like compared to revenues." Catlin reiterated, "Where

you've allowed them to have a three percent operating revenue allowance instead of the traditional one-and-a-half. One-a-half will continue to be traditional and the extra one-and-a-half that gets you from one-and-a-half to three would be set aside as a restricted operating revenue shortfall fund and if that operating revenue shortfall fund gets to be six percent of revenue, then the agreement would be that they would notify the Commission and the Commission could evaluate whether it's necessary to continue to collect that extra one-and-a-half percent if the balance has grown large enough that it does not continue to be necessary."

- 171 Regarding seasonal rate, because Kent County Water Authority proposed a relatively nominal seasonal differential, the Division is not opposing.
- 172 This would be a first step and would be getting the customers used to the idea that a small differential is not a bad thing.
- 175 Regarding the question of discriminatory practices within customer classes, he stated that he believed it would apply to all meter sizes so it could be any customer.
- 178 Kent County Water Authority has not changed their revenue projections based upon the implementation of a seasonal rate. Kent County Water Authority's response to Division 1-22 FY 2008 liability/property insurance premiums were escalated for one-and-one-half percent growth to determine the rate year premiums rather than 1.33 percent and that it was corrected.
- 180 Regarding water usage, Mr. Catlin stated, "Mr. Woodcock in his rebuttal updated to reflect the fiscal 2008 sales, but only for the loss of Clariant and I have accepted that basically those sales were very comparable to what the test year sales were so that even with the loss of Amgen and there's no dispute between Kent County Water Authority and myself at this time."
- 182 That the Division was comfortable with the appropriate addition to their workforce of the new employee. Regarding the reporting to the Commission from three times a year to two times per year, Mr. Catlin felt that that was reasonable in that the difficulty of putting together the numbers other than on a quarterly or semi-annual basis.

#### Commissioner Holbrook

- 184 Question concerning the 4,000 plus or minus customers of Kent County Water Authority who live in Warwick pay significantly more than they would pay if they were in the Warwick system.

185 Catlin said: The possibility is that Warwick is not doing the infrastructure replacement and so forth and that if they are not doing it they will incur substantial additional costs. He further stated that he would not propose that the rest of the customers in the Kent County Water Authority system have to pay higher rates so somehow the customers that live within the Warwick system can pay less. The Commissioner agreed.

Mr. McGair

188 Mr. Woodcock was sworn in as rate consultant and qualified as an expert by Kent County Water Authority and so ordered.

190 Mr. Woodcock stated that Kent County Water Authority is substantially different from other water utilities in Rhode Island in that it doesn't have a city behind it, it's not a department of the city, totally separate from the city, it can't count on any city or town or any other community or any other external source for funds, the only source of funding that it has is its rates and externally from borrowing, and it doesn't have the backup, the belts and suspenders he calls them, that other municipalities have.

191 He did not believe that the seasonal rates are discriminatory.

193 Mr. Woodcock made a correction to Page 4, Line 10 of his rebuttal testimony- delete the words after gallons on Line 9, so gallons per quarter are a little more than one cup would be deleted. The sentence would only say a customer could save this much on their water bill by simply reducing water use by only seven gallons per day.

Mr. Wold

Mr. Woodcock was not aware of any water utility was rejected or required modification of IRF plan by any violation of its IFR requirements because its actual spending was less.

Ms. Wilson-Frias

194 Woodcock agreed with the operating revenue allowance on a 3% with 1.5% split other than the threshold. Kent County Water Authority had suggested a threshold of four rather than three and the Authority still believes the four-percent threshold was the appropriate one and that the treatment of the Clariant income in Mr. Catlin's testimony was that any revenues from the pigment manufacturing portion of Clariant, not all Clariant revenue.

195 Clariant has made it clear that administrative offices were expected to remain and just the pigment manufacturing portion of Clariant was closing.

That it should not be put in any way in additional windfall. There are many different things that could happen but one element of all those is particularly unfair because the way this was set up that if revenues exceed the amount and it would go into the revenue stabilization portion of the account rather than the operating revenue, but that restricted revenue stabilization portion- the appropriate place for that is not to arbitrarily reduce revenues.

- 196 The third element that Woodcock disagrees with is if revenues exceed an excess of the amount that could be drawn from the stabilization fund only in excess of a half percent above the million otherwise he is in agreement.
- 197 With regard to healthcare, he did not recall if employees of the Pawtucket Water Supply Board have a healthcare co-share.
- 198 Concerning the seasonal rate, it would be the monthly accounts of June, July, August, September and that would see a full quarter of the incremental rate for monthly billing. A September customer would be billed for August, July and June. Mr. Woodcock also stated that he viewed the September customers as more of the May, June, July, August and September, during the peak-demand period.
- 199 He also stated that it's not discriminatory because it's that five-month period that you're looking at and you're picking up three months. Ideally everybody would be the same but there are constraints with any utility billing when you have to deal with this and certainly falls in the realm of just and reasonable. He agrees that it's not perfect and monthly billing would be much better; however the fact that it's not perfect doesn't mean that it's discriminatory, unreasonable or unjust.
- 200 The seasonal rate will apply to commercial customers as well.
- 203 Mr. Woodcock stated that Kent County Water Authority is not going to use more than the one-and-a-half operating reserve. Kent County Water Authority is not advocating seasonal rates under those circumstances. Regarding the Commission reports, that the semi-annual report is what would be advocated.
- 206 Mr. Woodcock would be making updates to Schedule 12.
- 207 Further cross-examination by Mr. Wold regarding the Clariant issue.

#### IV. ARGUMENT

Based upon prefiled and hearing testimony, responses to Commission records request and DPUC data requests and exhibits, KCWA has reduced its request for increase in rate revenues from \$5,464,560 to \$4,133,304 and represents a reduction of \$1,331,256 from 35% to 25.79%. The DPUC modified its position from \$2,622,427 and increased it by \$535,435 to \$3,157,863 which represents a difference of \$975,442 between the parties. The issues addressed:

#### IFR

The KCWA is asking the Commission to fully fund its Infrastructure program in the amount of \$6 million Dollars according to the infrastructure renewal and replacement plan (IFR) filed with the Department of Health. The General Assembly regulates powers to the Department of Health pursuant to R.I.G.L. 46-15.6-1 et seq. for the Infrastructure renewal and replacement plan which Kent County Water Authority filed in 2003. There have been arguments posed that the IFR has never been fully funded and that it should not at this juncture. One must take note of the R.I.G.L. 46-15.6-2(a) that this is the paramount policy of the State of Rhode Island that water is vital to life. Webster defines paramount as "ranking higher than any other ... supreme." The statute continues that decay of infrastructure can threaten water quality; the failure to replace will ensure degrading and that this threat to public health outweighs the economic costs of infrastructure. This strong legislative enactment continues that there must be an establishment of a fund mechanisms to carry out the IFR.

It should be conspicuous to the Commission that Kent County Water Authority must continue its program fully funded to overcome its more than a century old infrastructure in order to prevent ruination of the system.

The position of the DPUC that the Authority should have \$5.4 million untenable since it is without justification and is arbitrary. The Commission is aware of the importance of the legislative edict and should fund the IRF plan fully to 6 million dollars.

#### Seasonal Rates

Kent County Water Authority has proposed a revenue neutral seasonal rate as a first step to encourage customers to become aware of the seriousness of water in their lives as has been previously encouraged by this Commission and Legislation initiatives. However, KCWA has made it clear that without approval of the requested operating revenue allowance, this proposal must be treated as withdrawn. The proposed seasonal rate is not discriminatory in any way. The proposed seasonal rate is calculated based on KCWA costs – as it is cost-based.

The DPUC does not object to this proposal.

#### Operating Revenue Allowance

Kent County Water Authority has reduced its proposed 5% to an operating revenue allowance of 3% of rate revenues with 1.5 restricted and 1.5 unrestricted and agrees to limit the restricted portion of the allowance to 6% of rate revenues (as adjusted over time) and Kent County Water Authority should report (11/1) to the Commission each year the revenues for the prior fiscal year and the level of

the restricted portion of the operating revenue allowance fund. If it exceed 6% of annual revenues, a docket could adjust the same. The DPUC agrees that if actual revenues in the rate year exceeded the allowed revenues (as adjusted) by more than 4%, any excess revenues be placed in the restricted portion.

However, pass through issues must be considered and should be factored into allowed revenues and Kent County Water Authority has stated that CPI is more accurate for the Northeast.

The DPUC proposes that the threshold for determining excess revenues be set at 3% above the allowed revenues and Kent County Water Authority disagrees with this proposal. The DPUC proposes that the rate year revenues exceed allowed revenues that any revenues from Clariant pigment manufacturing should be treated as excess (windfall) and added to the restricted portion of the ORA and Kent County Water Authority disagrees as there should be no further restriction on Clariant (see Woodcock hearing testimony, pg. 195).

#### Enforcement

The Kent County Water Authority proposed enforcement for moratorium and/even of \$250 and \$500 has been withdrawn. However, the turn on tariff charge of \$45 per occurrence and the turn off tariff charge of \$55 per occurrence are still being sought.

#### Labor Costs

Kent County Water Authority proposed 4% increase for its employees but the DPUC proposed 3.2% and it was accepted by Kent County Water Authority.

#### Health Insurance Costs

Kent County Water Authority has agreed to the revisions in Catlin's schedule TSC-6. Kent County Water Authority does not agree with DPUC recommendation that its employees shoulder a 10% contribution for the health care coverage to reduce costs by \$45,145 and if Kent County Water Authority not require it then operating revenue be debited.

Kent County Water Authority was aggressive in pursuit of health benefits and increased co-payments for doctor visits, prescriptions and urgent care and kept cost 8% to 11% below state plans.

The DPUC points to the Narragansett Bay Commission as a model but was unsure at the hearing as to any of the particulars such as average salary, co-payments, reduction in salary and the like. The DPUC point only to a phase in allowed because of the union collective bargaining. It is not well reasoned to penalize Kent County Water Authority or its employees simply because it is not unionized. Additionally, to suggest that it be removed from the operating revenue allowance would reduce the allowance by 0.3% and is not fair.

It is also remarkable to suggest that Kent County Water Authority adjust salaries for a 10% contribution after Kent County Water Authority agreed with the DPUC to reduce its labor costs from 4% to 3.2% and would cost each employee another \$1,335.00 per year. The DPUC has proposed that the rate sought would add to the customers' economic strain at \$160 per year, yet it turns a deaf ear to \$1,335.00 to the Kent County Water Authority employee would have to absorb.

#### Purchase Water Costs

Kent County Water Authority proposed to use test year sales as adjusted for closing large users i.e. Clariant which recently announced that it was closing its Coventry pigment operation. Further, Amgen has reduced its water use by 25%. DPUC agrees to the test year sales but not to the Clariant adjustment and reduce 4.14% total test year to 172,742 but the Amgen adjustment is accepted as \$63,798. Kent County Water Authority has acceded to the DPUC in that it proposed no change to Amgen and to reduce sales actual FY 2008 for Clariant.

#### Chemical Prices

Chemical prices were proposed at twice the rate of inflation and are more energy related costs. DPUC adjusted to reflect average quantities of chemical utilized over last four years and reduced projected rate year demand costs @ \$29,989. Kent County Water Authority disagreed with the adjustment; Woodcock disagreed with the adjustment. Woodcock did an analysis of chemical use (updated Sch. 1E, 1D) and that the Authority and many of his clients have seen doubling and tripling of chemical budgets. Kent County Water Authority was notified regarding the doubling of potassium hydroxide from the \$0.2006 used by Catlin to \$.50 per pound. This issue was resolved in favor of Kent County Water Authority.

#### T & D Maintenance Expense

DPUC proposed a reduction of \$252,504. Kent County Water Authority updated the DPUC values that changed Catlin's result in that the actual costs were now used for FY 2008 (P2 of Sch. 1E – Woodcock) Kent County Water Authority also adjusted for 4 years of inflation since 2005 and added 3 years of

inflation to go back to midpoint FY 2006 and 2007 (Sch. 1E Woodcock). This was resolved in favor of Kent County Water Authority.

#### General Inflation

DPUC position concerning Gross Domestic Product Price Index GDP-PI was more indicative or \$41,732 on GDP-PI of 5.5% (test year) and is \$60,995 less than the \$4,102,727 proposed by Kent County Water Authority. DPUC later accepted use of two times the CPI index for power and chemical related cost increases and Kent County Water Authority has agreed to use GDP-PI for other items.

#### PUC Assessment

DPUC reduced the PUC assessment by \$10,855 to \$54,800 with an increase of 3% and Kent County Water Authority is in agreement.

#### O & M Reserve

Kent County Water Authority proposed an amount equal to 25% if the requested rate year operating costs. DPUC was in agreement with the required funding to 25% of operating budge by the end of fiscal year. The required funding \$2,246,436 (operating expenses) and reserve balance at \$2,153,575. The required rate year \$92,861 and is \$407,807 less than the \$500,668 requested and that Kent County Water Authority did make the deposit. Catlin recommends funding of \$210,000 included in Kent County Water Authority FY 2009 budget and Kent County Water Authority disagrees in that it should be \$211,372.

#### Cost Allocation/Rate Design

KCWA proposed no change but raised to issue of KCWA continue 5/8" and 3/4" meters at the same charge. DPUC stated that there is no new information to suggest meter equivalency factors be revised.

DPUC raises again no opposition to seasonal rates with quarterly billing; and both agree that cost of study results for a 4-inch private fire service and for public fire service resulted in nominal reduction and is an overall increase of 16% that remain at current levels.

#### Insurance Costs

DPUC did not propose any adjustment to the 4% Worker's Compensation and 4.9% property and liability.

#### R & R Reserve

KCWA stated that R & R Reserve is funded at 1% of net plant value or \$78,515,214 on 6/30/07 and with addition of \$20-million of CIP through the rate year will produce \$98,000,000 net plant value which would result in the fund requirement of \$985,152 for rate year which is \$463,332 additional revenues. DPUC stated that the KCWA Bond indenture requires maintaining an R & R Reserve Fund of 1% of the net plant which KCWA is significantly behind on. KCWA included a funding requirement of \$463,332 in claimed revenues and the balance was \$521,820 to the projected requirement of \$985,152. KCWA deposited \$263,332 to require balance of June 30, 2007 and reducing the required balance to rate year of \$200,000 which is the number recommended.

As shown on Mr. Catlin's updated Schedule TSC-1, he has determined the KCWA revenue deficiency to be \$3,157,863. This amount is \$1,252,455 less than the increase of \$4,410,318 sought by the Authority in its rebuttal filing. Updated Schedule TSC-14 provides a summary of the rates necessary to generate this increase and identifies the effect of the increase on various customers and provides a proof of revenue at existing and proposed rates.

At the hearings, KCWA provided schedules that updated its position after considering Mr. Catlin's surrebuttal testimony. There are only four issues that divide the parties and two are essentially the same issue.

- KCWA urges that the IFR funding level of \$6 million that was approved by the Department of Health with no dissenting comments from the PUC should be kept in tact. Statutory language specifically notes that economic conditions should not preclude the funding as the Division proposes. Further, the Division provided no analysis of adverse economic conditions which should override R.I.G.L. 56-15.6-1 et seq. KCWA did provide such an analysis and showed that the \$600,000 difference had an impact of only \$0.05 per day on a typical customer and it can not be the detriment to override a paramount statutory mandate. As pointed out by Mr. Woodcocks' testimony – a customer can save this by reducing eater use by only 7 gallons per day!
- The second issue relates to the Division's proposal to cut funding for 10% of KCWA health care costs. The Division is not disputing that the amount claimed by KCWA is incorrect, wrong, or over inflated; in fact, the Division accepts the KCWA proposed cost for health care. Instead, the Division is saying don't give them the money to pay for it and they'll get it from increased charges to their employees. This is an annual increase of more than \$1,300 per employee which is unfair to the KCWA employees. There has been no showing or claim that KCWA employees are overpaid by an average of \$1,300 per year and given the Division's concern of economic hardships for KCWA customers, some recognition of this same concern for its employees seems in order.
- The Division's proposal not to fund \$46,724. of admitted costs is exacerbating in that a further reduction of the funding of the bond required O&M reserve fund by 25% or \$11,681. As, the Division is requesting that the Commission to ignore accepted health care costs and cut a combined \$58,405 because of a desire to have employees pay more for health

insurance. There is no proposal for notification, phase-in or the like. The Division simply proposes to just cut more than \$58,000 without any proof that it is correct.

- The final area of disagreement between the Division and KCWA relates to the operating revenue allowance. The Commission is well aware of legislative discussions on this matter. The Commission is also well aware that water sales in RI have been decreases virtually by year for most of the utilities it regulates. As a result, water utilities have not had sufficient revenues to fund the expenses allowed by the Commission. As a result, the Commission has been allowing the operating revenue to be determined based on total rate revenues and not just operating costs (the parties are in agreement on this element) and has allowed an increase allowance in the case of Providence Water if they file a seasonal rate proposal. KCWA has filed a seasonal rate proposal; the Commission doesn't have to wait. KCWA should get the same treatment afforded Providence Water and be allowed a 3% operating revenue allowance on its total rate revenues.

## **V. PROPOSED FINDINGS**

Based upon prefiled and hearing testimony, responses to Commission records request and DPUC data requests and exhibits;

### **A. Revenue Increases.**

KCWA is granted a revenue increase of \$4,133,304 for a total cost of service \$20,508,291 to be applied to usage on or after November 1, 2008.

### **B. IFR**

The KCWA is granted \$6 million to fully fund its Infrastructure program according to the infrastructure renewal and replacement plan (IFR) as approved by the Department of Health.

### **C. Seasonal Rates**

Kent County Water Authority is granted as proposed a revenue neutral seasonal rate as a first step to encourage customers to become aware of the seriousness of water in their lives and as has been previously encouraged by this Commission and Legislation initiatives.

### **D. Operating Revenue Allowance**

Kent County Water Authority is an operating revenue allowance of 3% of rate revenues with 1.5 restricted and 1.5 unrestricted and to limit the restricted portion of the allowance to 6% of rate revenues (as adjusted over time) and Kent County Water Authority shall report to the Commission each year the revenues for the prior fiscal year and the level of the restricted portion of the operating revenue allowance fund. If it exceeds 6% of annual revenues, a docket could adjust the same. If actual revenues in the rate year exceeded the allowed revenues (as adjusted) by more than 4%, any excess revenues be placed in the

restricted portion. Pass through wholesale increases and Consumer Price Index (CPI) must be considered and shall be factored into allowed revenues.

D. Labor Costs

Kent County Water Authority is granted a 3.2% salary increase for its employees.

E. Health Insurance Costs

Kent County Water Authority health insurance costs are approved as proposed by Kent County Water Authority.

F. Purchase Water Costs

Kent County Water Authority shall be granted purchase water costs of \$4,247,918 as adjusted in Sch. 1 in Record Request Number 6.

G. Chemical Prices

Chemical prices shall be granted \$229,043 as adjusted in Sch. 1 Record Request Number 6.

H. T & D Maintenance Expense

Kent County Water Authority is granted \$1,247,748 for T & E Maintenance expense as adjusted in Sch. 1 in Record Request Number 6.

I. General Inflation

Kent County Water Authority is granted a general inflation adjustment of two times the CPI index for power and chemical related costs and a GDP-PI inflation adjustment for all other items.

J. PUC Assessment

Kent County Water Authority is granted a PUC assessment in the amount of \$54,800 together with an additional 3%.

K. O & M Reserve

Kent County Water Authority is granted an amount equal to 25% of the requested rate year operating costs in the amount of \$211,372.

L. Insurance Costs

Kent County Water Authority is granted an increase of 4% Worker's Compensation and 4.9% property and liability insurances.

M. R & R Reserve

The R & R Reserve shall be funded at 1% of net plant value of \$98,515,214 for a total required fund balance of \$98,152.

N. Semi-Annual PUC Compliance Reporting

Kent County Water Authority shall file compliance reports semi-annually.

O. Shut Off/Turn on

Kent County<sup>[0]</sup> Water Authority is granted a tariff change for \$55/shut off charge and \$45/turn on charge per occurrence.

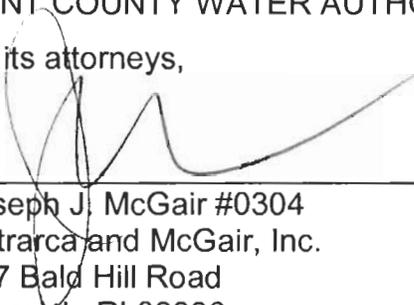
That the Commission adopts the findings.

**VI. CONCLUSION.**

Kent County Water Authority prays that the Public Utilities Commission Report and Order be consistent with and adopt the Findings contained in this brief. In furtherance of the Kent County Water Authority position, a summary of proposed revenue and expenses is attached.

KENT COUNTY WATER AUTHORITY

By its attorneys,



---

Joseph J. McGair #0304  
Petarca and McGair, Inc.  
797 Bald Hill Road  
Warwick, RI 02886  
(401) 821-1330

**CERTIFICATION**

I hereby certify that a true copy of the within was e-mailed to the attached service list on the 17<sup>th</sup> day of October, 2008.

Maniela Dooly

**Docket No. 3942 – Kent County Water Authority - General Rate Filing  
Service List 05/29/08**

<b>Name/Address</b>	<b>E-mail Address</b>	<b>Phone/FAX</b>
Joseph J. McGair, Esq. Petarca & McGair, Inc. 797 Bald Hill Rd. Warwick RI 02886	<a href="mailto:jjm@petrarcamcgair.com">jjm@petrarcamcgair.com</a>	401-821-1330 401-823-0970
Leo Wold, Esq. Dept. of Attorney General 150 South Main St. Providence RI 02895	<a href="mailto:Lwold@riag.ri.gov">Lwold@riag.ri.gov</a>	401-222-2424
	<a href="mailto:jbell@ripuc.state.ri.us">jbell@ripuc.state.ri.us</a>	401-222-3016
	<a href="mailto:sscialabba@ripuc.state.ri.us">sscialabba@ripuc.state.ri.us</a>	
	<a href="mailto:amancini@ripuc.state.ri.us">amancini@ripuc.state.ri.us</a>	
	<a href="mailto:Mtobin@riag.ri.gov">Mtobin@riag.ri.gov</a>	
	<a href="mailto:Kzelano@riag.ri.gov">Kzelano@riag.ri.gov</a>	
Thomas S. Catlin Exeter Associates, Inc. 5565 Sterrett Place, Suite 310 Columbia, MD 21044	<a href="mailto:Tcatlin@exeterassociates.com">Tcatlin@exeterassociates.com</a>	410-992-7500 410-992-3445
Timothy Brown, P.E. General Manager Chief Engineer Kent County Water Authority PO Box 192 West Warwick RI 02893-0192	<a href="mailto:tbrown@kentcountywater.org">tbrown@kentcountywater.org</a>	401-821-9300 401-823-4810
Lincoln S. Lennon, Esq. City Council Solicitor 915 Smith Street Providence, RI 02908	<a href="mailto:llennon@lennonlaw.net">llennon@lennonlaw.net</a>	401-621-7600 401-521-7330
Peter D. Ruggiero, Esq. Warwick City Solicitor Ruggiero, Orton & Brochu 20 Centerville Road Warwick, RI 02886	<a href="mailto:Ruggieropd@ruggiero-orton-brochu.com">Ruggieropd@ruggiero-orton-brochu.com</a>	401-737-8700 401-737-0735
Christopher Woodcock Woodcock & Associates, Inc. 18 Increase Ward Drive Northborough MA 01532	<a href="mailto:Woodcock@w-a.com">Woodcock@w-a.com</a>	508-393-3337 508-393-9078
<b>Original &amp; nine (9) copies file w/:</b> Luly E. Massaro, Commission Clerk Public Utilities Commission 89 Jefferson Blvd. Warwick RI 02889	<a href="mailto:Lmassaro@puc.state.ri.us">Lmassaro@puc.state.ri.us</a>	401-941-4500
	<a href="mailto:Cwilson@puc.state.ri.us">Cwilson@puc.state.ri.us</a>	401-941-1691
	<a href="mailto:Anault@puc.state.ri.us">Anault@puc.state.ri.us</a>	