

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

IN RE: KENT COUNTY WATER AUTHORITY :
REQUEST TO WITHDRAW FUNDS FROM : DOCKET NO. 4142
OPERATING REVENUE ALLOWANCE :

ORDER

On November 13, 2012, Kent County Water Authority (“KCWA”) filed a Miscellaneous Petition with the Public Utilities Commission (“Commission”) seeking to withdraw \$607,077 from the Restricted Operating Revenue Allowance, citing a revenue shortfall greater than 0.5 percent of total allowed rate revenue. Exhibit A to the Petition showed that KCWA actually realized revenues in excess of the level approved by the Commission in KCWA’s last rate order, \$19,692,232 in Fiscal Year 2012 compared to the Authorized Revenue from Rates of \$19,341,701. However, KCWA maintained that the Commission had allowed the utility to apply an inflationary factor to the authorized revenue requirement for purposes of determining whether KCWA realized a revenue shortfall and when this amount, \$20,299,309 was compared to the FY 2012 revenues, KCWA actually realized a revenue shortfall.¹

On December 13, 2012, the City of Warwick filed an opposition to KCWA’s Petition on the basis that KCWA’s requests is akin to a rate increase to be borne by all ratepayers and that KCWA did not make a showing that it attempted to cut expenses.² On January 11, 2013, after conducting discovery, the Division filed a letter with the Commission stating that KCWA’s interpretation of the Commission’s Order was inconsistent with its understanding of the applicability of the inflationary factor, but stating that the Commission’s Order was not definitive on this matter and may be reasonably subject to interpretation.³ The Division also noted that

¹ KCWA’s Miscellaneous Petition at 2-3, Exhibit A.

² Intervenor’s Position at 1-2.

³ Letter from Leo Wold, Esq. to Luly Massaro, Commission Clerk dated January 11, 2013 at 1-2.

KCWA had responded to data requests showing that “KCWA currently is experiencing cash flow problems that have mainly arisen from circumstances beyond the control of KCWA.”⁴ Therefore, the Division did not oppose KCWA’s Petition, but “recommend[ed] the Commission and parties revisit the issue of KCWA’s operating revenue allowance and any restrictions that may be placed on it in KCWA’s next rate filing so the issue may be more fully vetted.”⁵

On January 25, 2013, KCWA filed a letter with the Commission stating that it agreed with the Division’s position and disagreed with Warwick’s position. Addressing Warwick’s position, KCWA noted that there is no requirement in the Commission’s Order that withdrawals from the Operating Revenue Allowance be made only after a showing that the utility reduced expenses.⁶

On January 31, 2013, at an Open Meeting, the Commission considered KCWA’s Petition and the other parties’ positions. With regard to whether there was a revenue shortfall, the Division agrees that it is unclear under the circumstances in this case. The transcript from the Commission’s review of KCWA’s rate filing shows that the inflationary factor was discussed for purposes of whether KCWA realized a revenue surplus, but the possibility of a shortfall was never discussed. Therefore, the Record neither supports nor disputes this argument and the Order was written broadly enough to support KCWA’s interpretation.

Following its review, the Commission approved KCWA’s request to withdraw \$607,077 from the restricted Operating Revenue Allowance. KCWA has represented that there are sufficient funds within the account to withdraw and that without it, a rate case would be necessary. Therefore, the Commission is satisfied that under the unique circumstances of this case, KCWA has met its burden. However, the Commission agrees with the Division that further

⁴ *Id.* at 2.

⁵ *Id.*

⁶ Letter from Robert A. Watson, Esq. to Luly Massaro, Clerk at 1-2.

review will be necessary as part of KCWA's next rate case, both to discuss the purpose of the operating revenue allowance and any conditions on the account.

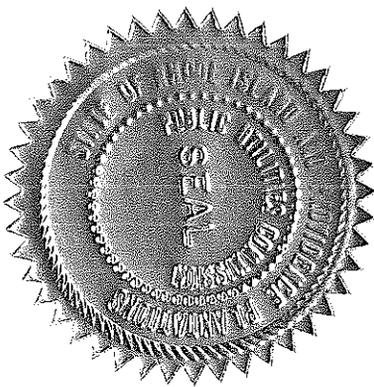
Accordingly, it is hereby

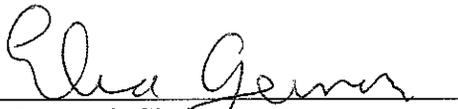
(20973) ORDERED:

1. Kent County Water Authority's Miscellaneous Petition for Relief (Request to Withdraw Funds from Operating Revenue Allowance) is hereby approved.

EFFECTIVE IN WARWICK, RHODE ISLAND ON JANUARY 31, 2013, PURSUANT TO AN OPEN MEETING DECISION ON JANUARY 31, 2013. WRITTEN ORDER ISSUED FEBRUARY 28, 2013.

PUBLIC UTILITIES COMMISSION




Elia Germani, Chairman


Mary E. Bray, Commissioner


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.