

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**IN RE: KENT COUNTY WATER AUTHORITY                   :**  
**ABBREVIATED RATE FILING                               :**           **DOCKET NO. 5012**

**DIVISION’S RESPONSE TO THE PUBLIC UTILITIES COMMISSION’S REQUEST  
FOR BRIEFING REGARDING WHOLESALE RATES IN DOCKET NO. 4994  
(July 24, 2020)**

In Docket No. 4994, the Commission requested the following question/issue be briefed:

“Does the PUC have jurisdiction over the wholesale rate charged by KCWA to the City of Warwick? If a party takes the position that the PUC does not have jurisdiction, please be sure to explain in the brief why the PUC would have jurisdiction over the wholesale rates charged by Providence Water to the City of Warwick, but would not have it over the wholesale rate charged by KCWA to Warwick.” The Division submits that Rhode Island General Laws § 39-3-38 is dispositive on the matter. The section provides as follows:

The authority of any public waterworks or water service owned or furnished by any city, town, water district, fire district, or any other municipal or quasi-municipal corporation to enter into contracts with each other for the sale of water at wholesale is hereby confirmed, and the wholesale contracts shall be exempt from the provisions of § 39-3-24(1) but shall be filed with the division; provided, however, that whenever any public waterworks or water service owned or furnished by any city, town, water district, fire district, or any other municipal or quasi-municipal corporation shall enter into wholesale contracts with each other, the fair wholesale rates or charges for the quantity of water taken shall be for such times and at such rates fixed to continue during such periods as may be mutually agreed upon, or in default of agreement, as shall be determined by the commission in accordance with the provisions of §§ 39-3-10 and 39-3-11.

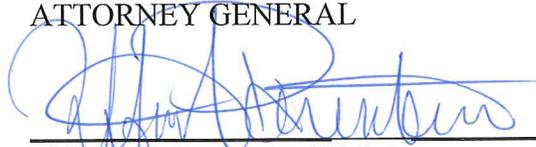
The language makes clear that wholesale contracts can be made at the option of the waterworks or water service and that only when there is no agreement does the commission have authority in accordance with the provisions of R.I.G.L. § 39-3-10 and § 39-3-11. With respect to the wholesale rate charged by KCWA to the City of Warwick, the Division would submit that § 39-3-38 clearly states that so long as the parties agree to the contract, the Commission has no

jurisdiction. With respect to Commission jurisdiction over the wholesale rates of Providence Water with the City of Warwick, jurisdiction exists due to the parties' decision to submit it to Commission jurisdiction. Without disagreement as to the agreement or a choice by the parties to submit it to the PUC, as Providence Water historically has, Commission jurisdiction does not exist over the wholesale contracts pursuant to statute.

Respectfully Submitted,

RHODE ISLAND DIVISION OF PUBLIC  
UTILITIES AND CARRIERS  
By its Attorney,

PETER F. NERONHA  
ATTORNEY GENERAL



---

Tiffany A. Parenteau (#8436)  
Special Assistant Attorney General  
150 South Main Street, Providence, RI 02903  
Tel: (401) 274-4400, ext. 2109  
Fax: (401) 222-3016  
tparenteau@riag.ri.gov