



STATE OF RHODE ISLAND

DIVISION OF PUBLIC UTILITIES & CARRIERS

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July 31, 2020

Luly Massaro, Clerk
Public Utilities Commission
89 Jefferson Blvd.
Warwick, RI 02888

Re: Dkt. 4994

Dear Ms. Massaro,

The Division of Public Utilities and Carriers ("Division") submits this correspondence as its Brief in the above docket. Relative to the specific issues the Commission requested the parties to brief: Does the Commission have jurisdiction over the wholesale rate charged by the Kent County Water Authority to the City of Warwick, and if not, why would the Commission have jurisdiction over the wholesale rates charged by the Providence Water Supply Board ("PWSB") to the City of Warwick, those issues have been addressed by the Rhode Island Department of Attorney General on behalf of the Division.

With respect to the issue of individual wholesale rates in this docket, the Division continues to advocate that the determination of these rates should be deferred to the next rate case of PWSB. The overwhelming weight of the record evidence supports this position. PWSB has eight (8) wholesale customers. Only the Bristol County Water Authority ("BCWA") has chosen to intervene and request individual rates in this case. Moreover, the Division's expert, Jerome D. Mierzwa, opined in support of the Division's recommendation, "[a]s noted in Div. 4-5, based on the location of each wholesale customer, significantly more infrastructure is required to serve certain wholesale customers including the Bristol County Water Authority, than other wholesale customers . . . because no evaluation of the infrastructure and facilities required to serve each wholesale customer has been conducted, it is the Division's position that appropriate cost-based rates for each customer cannot be developed in this proceeding." *DPUC Response to PUC 1-1*. Mr. Mierzwa reiterated his opinion at hearing, and his testimony remains unimpeached: "There

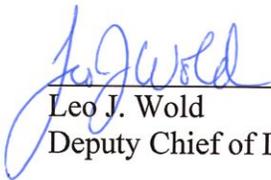
hasn't been any analysis of the specific facilities used by these wholesale customers..." 7/14/20, Dkt 4994 (Part 4): 19:31-36.¹

To the same effect, PWSB opined, "Providence Water is unable to calculate individual wholesale rates which are just and reasonable because it does not have sufficient information at this time to reflect all of [the] nuances involved in serving each wholesale customer individually . . . While some of these issues are related to cost of service, others present contractual, engineering, operational and financial challenges which will take time to properly evaluate." *PWSB Response to PUC 2-1*. Like the Division, PWSB observed that the different assets used to serve each individual wholesale customer are unknown at this time and are of critical importance to the inquiry. "This includes a distinction between high service (requires pumping) and low service (gravity-fed) areas . . . [and] the need to evaluate the individual reservoirs, pump stations and transmissions mains to ensure that the cost allocations reflect the unique use of these assets by each individual wholesale customer." *Id.* In sum, PWSB observed, "...the traditional base-extra capacity approach may need to be modified under an individual wholesale rate determination." *Id.*

The Division believes the Settlement Agreement ("Settlement") resolves all of the outstanding issues raised by PWSB's rate application in a just, fair and reasonable manner that is in the public interest. While BCWA injected the issue of individual wholesale rates into Dkt. 4994 after PWSB filed its rate application, BCWA has failed to satisfy (and indeed as explained above cannot satisfy) its burden of proof to prevail on this issue in the instant proceeding. *See e.g., Transcontinental Gas Pipeline Corp. v. FERC, 518 F.3d 916, 918 (D.C. Cir. 2008)* (when intervenors as opposed to pipeline seek to impose new rates, intervenors have the burden of showing the new rates are just and reasonable). *See also In Re Review of Amended PPA, Dkt. 4185, Order No. 20095 at 135-36 (R.I.P.U.C. 2010)* (where an intervenor's concerns regarding an amended PPA did not satisfy the intervenor's burden of proof so as to amount to a level of concern that would cause the Commission to deem the PPA commercially unreasonable). *See generally, Rules of Practice and Procedure, Rule 1.14* (intervention permitted when the intervenor shows it has an interest that may be directly affected, and which is not adequately represented by existing parties). Accordingly, the Division respectfully requests that the Commission approve the Settlement as submitted by the settling parties.

Respectfully submitted,

Division of Public Utilities and Carriers



Leo J. Wold
Deputy Chief of Legal Services

cc: Service List

¹ Refers to the Date, Docket, Part and Time of the PUC Live Stream / Video Archive of Hearing.