

STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION

IN RE: PROVIDENCE WATER SUPPLY BOARD : DOCKET No. 4994

**BRIEF OF THE PROVIDENCE WATER SUPPLY BOARD**  
**REGARDING JURISDICTION**

The Commission has asked the parties to brief the following question: “Does the PUC have jurisdiction over the wholesale rate charged by KCWA [Kent County Water Authority] to the City of Warwick?”

Pursuant to R.I.G.L. § 39-16-9, the Commission has broad jurisdiction over the rates and charges of KCWA.

Specifically concerning KCWA, R.I.G.L. § 39-16-9 states:

**Title 39. Public Utilities and Carriers**

**Chapter 39-16. Kent County Water District**

**§ 39-16-9. Application of public utility law – Rate determination**

Notwithstanding the proviso contained in the definition of “public utility” in § 39-1-2, chapters 1 - 5 of this title shall apply to the water district created by this chapter and to the governing body thereof, and notwithstanding anything contained in this chapter with respect to fixing rates and collecting charges, **rates and charges of the district and/or authority shall be established in accordance with and subject to the provisions of chapters 1 - 5.** (Emphasis added, copy attached as Exhibit 1).

Also, the Supreme Court has held that although KCWA does have the authority to promulgate rules to manage its own affairs, the Commission generally sets KCWA’s rates. *See In re: Kent County Water Authority Rate Schedule*, 996 A.2d 123 (RI 2010) (The Commission has the authority to review KCWA’s rate cases to protect the ratepayers); *See also Gtech Corp. v. Kent County Water Authority*, PC-2009-3537 (relying on *In re: Kent County Water Authority Rate Schedule* to outline the PUC’s ratemaking authority with regard to KCWA).

It should also be noted that the KCWA tariffs/rate schedule on file with the Commission specifically include this rate:

**WHOLESALE RATE WARWICK WATER DEPARTMENT:** Same rate as charged by Providence Water Supply Board. Rate will change upon changes to Providence Water Supply Board wholesale rate change. (Copy attached as Exhibit 2).

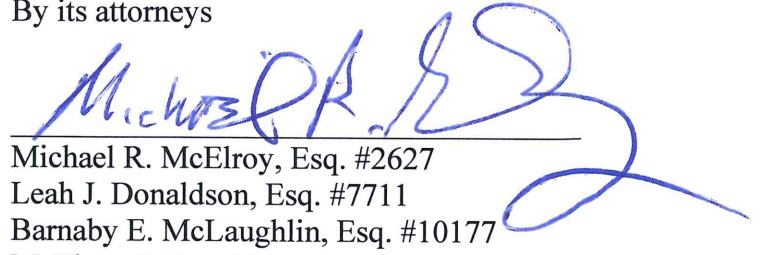
Nevertheless, R.I.G.L. § 39-3-38 specifically deals with wholesale water contracts such as the KCWA and Warwick contract and it provides:

**§ 39-3-38. Wholesale contracts for the sale of water – Rates or charges –** 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(a) 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. (Emphasis added, copy attached as Exhibit 3).

Therefore, for the reasons stated above, it appears to Providence Water that it is arguable that Warwick and KCWA have the authority to agree upon the rate for their wholesale water contract, and only if they are unable to agree on a rate would the Commission have jurisdiction over the wholesale contract rate charged by KCWA to Warwick. As the Commission stated in Order No. 13947 in the case of In Re: Newport Water (Docket No. 2029), June 19, 1992, “. . . a wholesale customer . . . by statute is only limitedly within the Commission’s purview (R.I.G.L. Section 39-3-38).”

Respectfully submitted,  
PROVIDENCE WATER SUPPLY BOARD  
By its attorneys

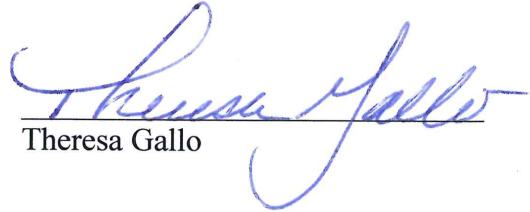
Dated: July 24, 2020



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CERTIFICATE OF SERVICE

I hereby certify that, on the 24<sup>th</sup> day of July, 2020, I served this document on the attached service list.

  
Theresa Gallo

**Docket No. 4994 - Providence Water Supply Board – General Rate Filing  
Service List updated 7/8/2020**

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# TITLE 39

## Public Utilities and Carriers

### CHAPTER 39-16

#### Kent County Water District

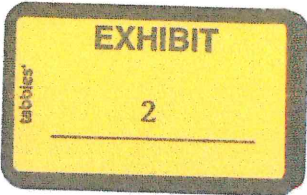
#### SECTION 39-16-9

##### **§ 39-16-9. Application of public utility law – Rate determination.**

Notwithstanding the proviso contained in the definition of "public utility" in § 39-1-2, chapters 1-5 of this title shall apply to the water district created by this chapter and to the governing body thereof, and notwithstanding anything contained in this chapter with respect to fixing rates and collecting charges, rates and charges of the district and/or authority shall be established in accordance with and subject to the provisions of chapters 1-5. Until so established, the rates and charges which were in effect at the time when the authority acquired properties pursuant to the provisions of § 39-16-8, shall continue in full force and effect.

History of Section.

(P.L. 1952, ch. 2876, § 1; G.L. 1956, § 39-16-9.)



**KENT COUNTY WATER AUTHORITY  
RATE SCHEDULE**

**METER SALES VOLUME:**

Applicable to all metered water in the Kent County system for residential, commercial and industrial consumption.

**Rates:**

	Rate Per 100 cu. ft.
Small (5/8" to 2" meters)	\$6.161
Medium (3" to 4" meters)	\$4.913
Large (6" meters and up)	\$4.475

**Terms of payment:**

All metered sales bills are rendered quarterly or monthly and are due and payable in full when rendered.

**METERED SALES SERVICE CHARGE:**

Applicable to all metered sales of customers of Kent County Water Authority exclusive of fire service connections.

**Rates:**

Meter Size (in)	Quarterly Accounts	Monthly Accounts
5/8 & 3/4	\$ 15.41	\$11.22
1	\$ 20.42	\$12.89
1 1/2	\$ 29.48	\$16.03
2	\$ 37.99	\$18.75
3	\$ 48.67	\$22.31
4	\$ 69.37	\$29.21
6	\$ 115.19	\$44.48
8 & up	\$ 194.89	\$71.05

**Terms of Payment:**

All customer service charges are billed quarterly or monthly in advance, and are due and payable in full when rendered.

**PUBLIC FIRE SERVICE:**

Applicable for service to public fire hydrants in the Kent County service area.

**Rates:**

	Quarterly
Hydrant	\$189.69 hydrant
Plus	\$ 9.13/billing

**Terms of Payment:**

All bills for public fire service are rendered quarterly in advance and are due payable in full when rendered.

**PRIVATE FIRE SERVICE:**

Applicable for service to private fire protection systems and private hydrants in the Kent County service area.

**Rates:**

Service Size (in.)	Quarterly Accounts
4	\$ 76.35
6	\$204.38
8	\$425.23
10	\$757.42
12	\$1271.84
hydrant	\$204.38



**Terms of Payment:**

All bills for private fire services are rendered quarterly in advance and are due and payable in full when rendered.

**OTHER CHARGES**

**WHOLESALE RATE WARWICK WATER DEPARTMENT:** Same rate as charged by Providence Water Supply Board. Rate will change upon changes to Providence Water Supply Board wholesale rate charge.

**INTEREST ON DELINQUENT ACCOUNTS:** Applicable to all water account balances over 30 days from billing date. Interest charges are payable as incurred.

CHARGE: 1.5% per month on unpaid balances.

**TURN OFF CHARGE:** Applicable to all services turned off due to a specific violation which resulted in the requirement to terminate service and requests prior to 8:00 a.m. and after 3:00 p.m., Monday thru Friday and all day Saturday, Sunday, and any Holiday. Charges payable in full prior to subsequent turn-on.

CHARGE: \$55.00 per occurrence

**TURN ON CHARGE:** Applicable to all services turned on after the interruption of a service due to a specific violation which resulted in the service shut off and requests prior to 8:00 a.m. and after 3:00 p.m., Monday thru Friday and all day Saturday, Sunday, and any Holiday. Charges payable in full prior to turn-on.

CHARGE: \$45.00 per occurrence

**INSTALLATION AND REPAIR WORK:** Applicable to all installation and repair work.

CHARGE: Cost of all material, labor and equipment plus applicable overhead, as determined by the Kent County Water Authority on a yearly basis, usually on July 1.

**CHLORINATION CHARGE:** Applicable to all main extensions to existing systems.

CHARGE: Cost of laboratory and labor to collect, transport to lab, flush and test sample, as determined by the Kent County Water Authority on a yearly basis, usually on July 1.

**MATERIAL PURCHASE:** Applicable to all material sales.

CHARGE: Cost of material plus handling and applicable overhead, as determined by the Kent County Water Authority on a yearly basis, usually on July 1.

**INSUFFICIENT FUND RETURNED CHECKS:** Applicable to all payment checks returned to Kent County Water Authority by our bank due to insufficient funds available or account problems will bear a charge for our handling and bank charges.

CHARGE: \$20.00 Per occurrence.

**METER TESTING:** Applicable to all meter testing services.

CHARGE: \$100.00 Per occurrence.

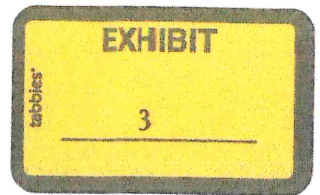
**INSPECTION FEE'S:** Applicable to all developer installation work, public or private, in regards to all main or service extensions.

CHARGE: \$5.00/ft of installed main or for service pipe from main to curb stop.

**LEGAL FEE'S:** Applicable to all services requiring legal assistance by the Kent County Water Authority's legal counsel including but not limited to easement description preparation or review, deed restriction preparation or review, involvement with actions necessary for review or approvals of any water service request to the Authority.

CHARGE: Cost as billed to Kent County Water Authority by legal counsel on a monthly basis.

**Terms Of Payment For All Other Charges:** All bills rendered quarterly or monthly are due and payable in full when rendered.



**Rhode Island Statutes**

**Title 39. Public Utilities and Carriers**

**Chapter 39-3. Regulatory Powers of Administration**

*Current through Public Law 19 of the 2020 Legislative Session*

**§ 39-3-38. Wholesale contracts for the sale of water - Rates or charges**

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(a) 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.

**Cite as R.I. Gen. Laws § 39-3-38**

**History.** P.L. 1982, ch. 138, § 1.