

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DIVISION OF PUBLIC UTILITIES AND CARRIERS
89 JEFFERSON BOULEVARD
WARWICK, RHODE ISLAND 02888

IN RE: Rules and Regulations Prescribing :
Standards for Water Utilities : Docket No. D-13-147

ORDER

Whereas: On November 14, 2013, the Rhode Island Division of Public Utilities and Carriers' ("Division") published a "Notice Of Proposed Rulemaking" wherein interested persons were invited to submit data, views, or arguments, in response to the Division's proposed adoption of an amendment to Rule IV(C) of the Division's currently effective *Rules and Regulations Prescribing Standards for Water Utilities* ("Water Rules").¹

Whereas: The proposed amendment is identified below

Current Rule:

C. Water Quality

When matters of water quality are under review by DOH, the Division shall be notified thereof in writing by the water utility. A final report shall be submitted by the water utility to the Division within a reasonable time after final disposition of the matter.

Proposed Amended Rule:

C. Water Quality

1. Notification to Division. When matters of water quality are under review by the Rhode Island Department of Health (DOH), the Division shall be

¹ The notice was published in conformance with the requirements of R.I.G.L. §42-35-3.

notified thereof in writing by the water utility. A final report shall be submitted by the water utility to the Division within a reasonable time after final disposition of the matter.

2. Notification to Public. When matters of water quality and DOH regulations necessitate notification to the public, the water utility shall effectuate such notification as expeditiously as possible and by all reasonable means available. Timely and direct notification shall also be provided to the appropriate municipal officials in the cities and towns affected, the Division, and the Rhode Island Emergency Management Agency.

Whereas: The deadline for filing public comments (data, views or arguments) in the instant rulemaking docket was December 16, 2013.

Whereas: By the December 16, 2013 deadline for public comments, the Division received only a single written comment, from the Kent County Water Authority (“KCWA”). KCWA is one of six public water suppliers regulated by the Division. KCWA submitted its comments on December 10, 2013.

In its written comments, KCWA states that after discussing the Division’s proposed amendment to Rule IV(C) with the Rhode Island Emergency Management Agency (“RIEMA”), the Rhode Island Department of Health (“RIDOH”) and members of the Division, KCWA opines that the Division should modify its proposed amendment to Rule IV(C) to shift the responsibility for notifying “the appropriate municipal officials in the cities and towns affected...” from the water utility to RIEMA. KCWA asserts that “the most appropriate avenue for notification is for all Public Water Utilities to utilize RIEMA as the primary agency or mechanism for notifying all municipal officials, cities, towns and the general public during periods when water quality emergencies occur.”

KCWA maintains that water utilities should only be required to directly notify the Division and RIDOH in cases of water quality emergencies.

Whereas: The Division is encouraged that all six of its regulated water utilities agree that it is important to communicate water quality emergencies to city and town officials as quickly as possible in order to advance dissemination of the news of the water quality emergency to those members of the public living and working in the affected area.

The Division also appreciates KCWA's comments with respect to the issue of how best to notify the public and municipal officials in times of water emergencies. While the Division would agree with KCWA that RIEMA may be better equipped to quickly notify the public and municipal officials with details of a water quality emergency, the Division must remain mindful that the jurisdictional reach of its rules and regulations only extend to the public utilities subject to the Division's regulatory supervision. Accordingly, the Division cannot compel RIEMA to provide the required notifications.

However, the Division will agree to modify its proposed amendment to Rule IV(C) to allow its regulated water utilities the option to utilize RIEMA to provide the required timely notification to the "public" and "appropriate municipal officials" if RIEMA determines that it is capable of effectuating the timely notifications and accepts that responsibility.

Whereas: Predicated on the foregoing comments and findings, the Division agrees to the following modification to its previously identified amendment to Rule IV (C) of the Water Rules:

C. Water Quality

1. Notification to Division. When matters of water quality are under review by the Rhode Island Department of Health (DOH), the Division shall be notified thereof in writing by the water utility. A final report shall be submitted by the water utility to the Division within a reasonable time after final disposition of the matter.

2. Notification to Public. When matters of water quality and DOH regulations necessitate notification to the public, the water utility shall effectuate such notification as expeditiously as possible and by all reasonable means available. Timely and direct notification shall also be provided to the appropriate municipal officials in the cities and towns affected, the Division, and the Rhode Island Emergency Management Agency. The water utility may rely on the Rhode Island Emergency Management Agency to provide notification to the public (and appropriate municipal officials) if the Rhode Island Emergency Management Agency determines that it capable of effectuating the timely notifications and accepts that responsibility.

Now, therefore, it is

(21294) ORDERED:

1. That predicated upon the findings contained herein, the Division hereby adopts the amendment described herein for inclusion in the Division's "*Rules and Regulations Prescribing Standards for Water Utilities.*"
2. That the Division's Rules Coordinator is hereby instructed to file a certified copy of the amended *Rules and Regulations Prescribing Standards for Water Utilities* with the Rhode Island Secretary of State as soon as practicable, and also to fully comply with the filing requirements contained in R.I.G.L. §42-35-3.1 and §42-35-4. The Division will

endeavor to file the instant Rules with the Rhode Island Secretary of State on or before January 10, 2014 in order to facilitate an effective date of January 30, 2014.

3. That the newly amended “*Rules and Regulations Prescribing Standards for Water Utilities*” shall take effect on January 30, 2014.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON DECEMBER 23, 2013.

John Spirito, Jr., Esq.
Chief Legal Counsel

Approved: _____
Thomas F. Ahern
Administrator