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April 29, 1997

Ms. Blanca S. Bayo, Director
Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Re: Docket No. 970229-SU, Application of K.W. Resort Utilities Corporation for limited proceeding increase in reuse water rates.

Dear Ms. Bayo:

Enclosed for filing on behalf of the protestant, Key West Golf Club, are the original and fifteen copies of the Notice of Limited Appearance and Petition to Intervene for the Limited Purpose of Raising the Issues Set Forth in its Protest and Motion to Dismiss the Application for Limited Proceeding, or in the alternative, Protest and Request for Formal Hearing.

Thank you for your assistance. If there are any questions, please let me know.

Sincerely yours,

Ben E. Girtman
Ben E. Girtman

ACK _____
AFA _____
APP _____ Encl.
CAF _____ cc w/encl.
 William Smith, Esq.
CMU _____
CTR _____
EAG _____
LEG 1 57
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OPC _____
RCH _____
SEC 1
WAS _____
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RECEIVED & FILED

FPSC-BUREAU OF RECORDS

DOCUMENT NUMBER-DATE

04355 MAY-16

FPSC-RECORDS/REPORTING

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of K.W.) DOCKET NO. 970229-SU
Resort Utilities Corporation for) Submitted for filing:
limited proceeding increase) April 29, 1997
in reuse water rates.)
_____)

KEY WEST COUNTRY CLUB'S

NOTICE OF
LIMITED APPEARANCE
AND
PETITION TO INTERVENE
FOR THE LIMITED PURPOSE OF
RAISING THE ISSUES
SET FORTH IN ITS

PROTEST AND MOTION TO DISMISS
THE APPLICATION FOR LIMITED PROCEEDING,
OR IN THE ALTERNATIVE,
PROTEST AND REQUEST FOR FORMAL HEARING

COMES NOW Protestant, Key West Country Club, which includes the golf course on which reuse water is used, and in support of its Notice and Petition states that:

1. The basic facts are set forth in Key West Country Club's Protest and Motion to Dismiss the Application for Limited Proceeding, Or In The Alternative, Protest and Request for Formal Hearing, which were previously filed with the Commission. Protestant is the Utility's only reuse water customer, and is challenging the Utility's petition for limited proceeding which seeks only to raise the reuse water rates (to five times the current rate).

2. The preliminary issue is whether the Utility can use the limited proceeding for this purpose. If it wants to raise its

rates, the Utility must petition for a general rate proceeding. The Utility has been willing to operate at less than compensable rates of return from all its customer classes. The rates paid to the Utility by, and the cost burdens imposed on the Utility by, all customer classes must be considered in one proceeding. To do otherwise under the facts of this particular case would violate Protestant's Constitutional rights, including but not limited to due process and equal protection.

3. The Utility's current reuse water rate is \$.25 per thousand gallons, which was set by the Utility and approved by the Commission based upon the Utility's own cost study. The Utility now seeks to raise that rate to \$1.25 per thousand gallons.

4. At the request of Commission Staff Attorney, representatives of the Utility and of the golf course met with Staff members on April 16, 1997, to discuss the possibility of settlement. The meeting concluded with the expectation that the manager of the Utility would contact the representative of the golf course to talk about a resolution. To date, no such contact has been made.

5. At the meeting, the Commission Staff Attorney raised the question of whether the golf course should file a petition to intervene in this proceeding. The Protestant's position is that no such petition is required. In accordance with Rule 25-22.026(1), F.A.C., protestants are parties to the proceeding, and therefore need not file a separate petition to intervene in accordance with Rule 25-22.039, F.A.C. As the Utility's only reuse customer,

Protestant is substantially affected by this proceeding and it timely filed written protest of the proceeding. However, to preserve its rights if a petition to intervene ultimately is found to be required, the Protestant hereby files its notice of limited appearance and its petition to intervene for the limited purposes set forth herein and reserves all its rights herein.

6. This notice of limited appearance and petition to intervene for the limited purpose of raising procedural and jurisdictional issues is similar to filing a notice of limited appearance in a Circuit Court proceeding where an entity seeks to challenge certain procedural or jurisdictional aspects of the Court proceeding without submitting itself to the general jurisdiction of the Court. The golf course does not willingly consent to going forward with the limited proceeding filed by the Utility. Such a proceeding would violate Protestant's Constitutional rights, including but not limited to its rights of due process and equal protection.

7. The golf course does not accept the validity of the current limited proceeding. The Utility did not give notice of the proceeding to the Protestant. Furthermore, the relief sought by the Utility cannot be granted under the facts of this limited proceeding.

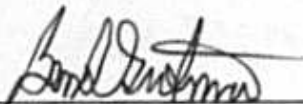
8. Protestant reiterates its request that the Public Service Commission consider and grant its motion to dismiss the limited proceeding. If that motion is denied, the Protestant petitions the Commission to either convert the proceeding to a general rate case

or allow the Utility to withdraw its application for limited proceeding. If all of those requests are denied by the Commission, Protestant petitions for a formal hearing on the limited proceeding pursuant to Section 120.57(1), Florida Statutes, but does not waive its right to appeal, prior to the formal hearing, any ruling of the Commission on the these pending matters.

9. Assignment for Commission hearing would be in accordance with Section 25-22.0355, F.A.C. Part IV of Chapter 25-22, F.A.C. applies to all proceedings in which substantial interests of a party are determined by the Commission. Rule 25-22.036(1), F.A.C., applies to formal proceedings. Protestants motions and petitions herein are filed based upon, but not limited to, Rule 25-22.037(2), and Rule 25-22.036(4)(a) and (b), F.A.C., respectively.

WHEREFORE, Key West Golf Club files this notice of limited appearance and its petition to intervene for the limited purposes set forth herein.

RESPECTFULLY SUBMITTED this 29th day of April, 1997.



Ben E. Girtman
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Tallahassee, Fl 32301
(904) 656-3232

Attorney for Protestant,
Key West Golf Club

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original and fifteen copies of the foregoing have been filed with the Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32301, and that a copy has been sent to Ralph Jaeger, Esq.*, Commission Attorney, and to F. Marshall Deterding, Esq.*, of Rose, Sundstrom & Bentley, 2548 Blairstone Pines Drive, Tallahassee, FL 32301, by U.S. Mail this 29th day of April, 1997.



Ben E. Girtman

* Via facsimile