

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in)
Wastewater rates in Monroe County)
By KW Resort Utilities, Corp.)
_____)

Docket No. 070293-SU

FILED: September 4, 2008

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order No. PSC-07-0729-PCO-SU, issued September 11, 2007, and PSC Order Nos. PSC-07-0786-PCO-SU, issued September 27, 2008; PSC-07-0851-PCO-SU, issued October 25, 2007; PSC-07-0901-PCO-SU, issued November 8, 2007; PSC-07-0970-PCO-SU, issued December 5, 2007 and PSC-08-0241-PCO-SU, issued April 15, 2008, hereby submit this Prehearing Statement.

APPEARANCES:

STEPHEN C. BURGESS
Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Room 812
Tallahassee, Florida 32399-1400
On behalf of the Citizens of the State of Florida.

1. **WITNESSES:**

Citizens prefiled testimony by the following witness:

Kimberly H. Dismukes In her testimony, Ms. Dismukes recommends numerous adjustments to the KWRU rate filing.

Andrew T. Woodcock, P.E., M.B.A. In his testimony, Mr. Woodcock recommends

adjustment to KWRU's used and useful ratio.

2. EXHIBITS:

Witness for Citizens prefiled the following exhibits:

Kimberly H. Dismukes

- (KHD-1) Summary of Adjustments
- (KHD-2) Organizational Chart
- (KHD-3) 900 Commerce Generator
- (KHD-4) Keys Environmental, Inc. Charges
- (KHD-5) Keys Environmental, Inc. Markup
- (KHD-6) Hurricane Hole Change Order
- (KHD-7) Monroe County Detention Center Project Costs
- (KHD-8) Green Fairways Change Orders
- (KHD-9) Johnson Constructors AWT Project Charges
- (KHD-10) Adjustment to Test Year Revenue
- (KHD-11) Operations and Maintenance Expense Comparisons
- (KHD-12) Mr. Smith's Travel Expenses
- (KHD-13) Public Relations Letters
- (KHD-14) Public Relations Samples
- (KHD-15) Adjustment to AWT Proforma Increase
- (KHD-16) Letter Addressing Discovery Matters

Andre T. Woodcock, P.E., M.B.A.

(ATW-1) Resume

(ATW-2) Used and Useful Calculations

3. STATEMENT OF BASIC POSITION

Before the rate filing, KWRU's revenues were already \$827,062 higher than necessary to obtain a reasonable return on its investment. The Commission should require KWRU to refund all of the interim rates with interest, and reduce KWRU's permanent rates by \$827,062

4. STATEMENT OF FACTUAL ISSUES AND POSITIONS

ISSUE 1: Is the quality of service provided by KW Resort Utilities Corp. satisfactory?

OPC: No position at this time.

ISSUE2: Should KWRU's test year rate base be adjusted for Keys Environmental hook-up fees?

OPC: Yes, KWRU's test year rate base should be reduced by \$252,690 to remove the separate connection fees paid to Keys Environmental, Inc.

ISSUE3: Should KWRU's test year rate base be adjusted to reclassify Keys Environmental expenses?

OPC: Yes.

ISSUE 4: Should KWRU's test year rate base be adjusted for KWRU's contribution to the decommissioning of jail facilities?

OPC: Yes, KWRU's test year rate base should be reduced by \$10,000 to remove the amount that KWRU spent to decommission the Monroe County Detention

Center's treatment facility.

ISSUE 5: Should KWRU's test year rate base be adjusted for Green Fairways Jail Project management fee?

OPC: Yes, KWRU's test year rate base should be adjusted to remove the \$32,198 management fee that KWRU paid for Green Fairways for the Monroe County Detention Center project.

ISSUE 6: Should KWRU's test year rate base be adjusted for Green Fairways SSI Project management fee?

OPC: Yes, KWRU's test year rate base should be adjusted to remove the \$301,180 fee that KWRU paid Green Fairways to administer the South Stock Island project.

ISSUE 7: Should KWRU's test year rate base be adjusted for Smith, Hemmesch, and Burke legal fees?

OPC: Yes, KWRU's test year rate base should be adjusted to remove the \$25,000 legal fee paid by KWRU to the law firm Smith, Hemmesch, and Burke.

ISSUE 8: Should KWRU's test year rate base be adjusted for Mr. Johnson's moving expenses?

OPC: Yes, KWRU's test year rate base should be adjusted to remove the \$8,602 that KWRU paid for Mr. Chris Johnson's moving expenses.

ISSUE 9: Should KWRU's test year rate base be adjusted for Johnson Constructors charges for JAS Corp.?

OPC: Yes, KWRU's test year rate base should be adjusted to remove the \$4,650 paid to JAS Corp. and Mr. Jim Johnson for travel and management fees for the AWT project.

ISSUE 10: Should KWRU's test year rate base be adjusted for Mr. London's consulting fees?

OPC: Yes, KWRU's test year rate base should be adjusted for the consulting fees that KWRU paid to former Monroe County Commissioner John London.

ISSUE 11: Should KWRU's test year rate base be adjusted for White and Case Legal Charges Related to Monroe County Audit Report?

OPC: Yes, KWRU's test year rate base should be adjusted to remove the \$27,230 in legal fees paid to the law firm of White and Case to work on a response to the Monroe County Audit Report.

ISSUE 12: Should KWRU's test year rate base be adjusted for the findings in the County Audit?

OPC: Yes.

ISSUE 13: Should KWRU's test year rate base be adjusted for the Key West Citizen PR Advertisement?

OPC: Yes, KWRU's test year rate base should be adjusted to remove the \$422 that KWRU paid the Key West Citizen for a newspaper advertisement.

ISSUE 14: Should adjustment be made to the utility's pro forma plant additions?

OPC: Yes, KWRU's test year rate base should be adjusted to remove \$111,374 paid to Green Fairways and \$30,000 paid to Johnson Constructors.

ISSUE 15: What are the used and useful percentages of the utility's wastewater treatment plant and collection and reuse systems?

OPC: A used and useful adjustment should be made to remove KWRU's \$1,324,595 from KWRU's plant in service.

ISSUE 16: What is the appropriate test year balance of accumulated depreciation?

OPC:

ISSUE 17: What are the appropriate test year balances of contributions-in-aid (CIAC) and accumulated amortization of CIAC?

OPC:

ISSUE 18: What is the appropriate working capital allowance?

OPC: KWRU's working capital allowance should be reduced by the Unamortized Rate Case expense.

ISSUE 19: What is the appropriate rate base?

OPC:

ISSUE 20: What is the appropriate return on common equity?

OPC: OPC had not adjusted KWRU's requested ROE.

ISSUE 21: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure?

OPC:

ISSUE 22: Should any adjustment be made to test year revenues?

OPC: Yes, revenue should be increased by \$158,151 to reflect the more accurate billing data of FKAA, by \$14,600 to reflect the historical rental fee collected by KWRU from its affiliate, and by \$19,624 to reflect revenue collected from the Monroe

County Detention Center.

ISSUE 23: Should any adjustments be made to sludge removal expenses?

OPC: Yes, KWRU's test year sludge removal expense should be reduced by \$7,819.

ISSUE 24: Should any adjustments be made to chemicals expense?

OPC: Yes, KWRU's test year chemical expenses should be reduced by \$16,480.

ISSUE 25: Should KWRU's test year expenses be adjusted for the reduction of infiltration and inflow related to the re-sleeving of its lines?

OPC: Yes.

ISSUE 26: Should KWRU's test year expenses be adjusted to remove any markup in pro forma expenses?

OPC: Yes.

ISSUE 27: Should any adjustment be made to materials and supplies?

OPC: Yes, KWRU's test year expenses should be reduced by \$2,739 to allocate a portion of the copier lease expense to co-users of the copier.

ISSUE 28: Should any adjustments be made to insurance-general liability?

OPC: Yes, KWRU's test year expenses should be reduced by \$701 to reflect Staff Audit Finding 15 that the cost to treat the trailer floor should be amortized over 5 years.

ISSUE 29: Should any adjustments be made to advertising expenses?

OPC: Yes, KWRU's test year expenses should be adjusted to remove \$26,653 that was charged to advertising and related to public relations.

ISSUE 30: **Should KWRU's test year expenses be adjusted for Mr. Smith's Management Fees Charged by Green Fairways?**

OPC: Yes, KWRU's test year expenses should be adjusted to remove 50% of the \$60,000 management fee that Mr. Smith charges the utility through Green Fairways.

ISSUE 31: **Should test year expenses be adjusted for certain transactions between Keys Environmental and KWRU?**

OPC: Yes, test year expenses should be reduced by \$33,826 to remove the mark-up charged by Keys Environmental, by \$1,313 charged for lab testing, by \$15,000 in hook-up fees that should have been capitalized, and by \$51,663 that should have been capitalized, and by \$3,077 for expenses that were reimbursed by third parties.

ISSUE 32: **Should any other adjustments be made to contractual services-other expenses?**

OPC: Yes, test year expenses should be reduced by \$1,548 to reflect a market-based cost for a golf cart rental and reduced by \$12,038 to remove bonuses paid to Key West Golf Course employees.

ISSUE 33: **Should any adjustments be made to miscellaneous expenses?**

OPC: Yes, test year expenses should be reduced by \$21,631 of travel expenses and the cost to transport a vehicle from Illinois to Key West, as well as \$420 to remove the charges paid to the Monroe County Sheriff to deliver hook-up notices.

ISSUE 34: **What is the appropriate amount of rate case expense?**

OPC: No rate case expense is warranted because the rate case is unnecessary.

ISSUE 35: Should any adjustment be made to test year depreciation expense?

OPC: Yes, depreciation expense should be adjusted to reflect changes in plant in service.

ISSUE 36: What is the test year wastewater operating income or loss before any revenue increase?

OPC:

ISSUE 37: What is the appropriate revenue requirement?

OPC: Rates should be reduced by \$827,062.

ISSUE 38: What is the appropriate rate structure for this utility?

OPC: No position at this time.

ISSUE 39: What are the appropriate monthly residential and general service rates?

OPC: No position at this time.

ISSUE 40: What are the appropriate monthly bulk and reuse service rates?

OPC: No position at this time.

ISSUE 41: In determining whether a portion of the interim increase, granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

OPC: The entire interim increase should be refunded, with applicable interest.

ISSUE 42: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

OPC: No rate case expense should be allowed, so no reduction would be necessary.

ISSUE 43: Should the utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission adjustments?

OPC: Yes.

ISSUE 44: Should this docket be closed?

OPC: Once the appropriate rate decreases have been implemented and the interim rates have been refunded, the docket should be closed.

5. **STIPULATED ISSUES:**

It appears that the following issues have been stipulated:

1. Should KWRU's test year rate base be adjusted for the Staff Audit Adjustment: Offset to Land Entry?
2. Should KWRU's test year rate base be adjusted for the Staff Audit Adjustment Permit Fees?
3. Should KWRU's test year rate base be adjusted for the Staff Audit Adjustment Beachcleaner Rental?
4. Should KWRU's test year rate base be adjusted for the Staff Audit Adjustment Working Capital?
5. Should any adjustments be made to sludge removal expenses?
6. Should KWRU's test year expenses be adjusted for Telephone Charges?
7. Should KWRU's test year expenses be adjusted for Political Expenses?
8. Should KWRU's test year expenses be adjusted for the Staff Audit Trailer Floor

Care?

9. Should KWRU's test year expenses be adjusted for the Staff Audit Adjustment: Beachcleaner Rental? - **Transportation Equipment (Acct 391) versus Power Operated Equipment (Acct 395)**
10. Should KWRU's test year expenses be adjusted for the Staff Audit Adjustment: Taxes Other than Income Tax?

6. PENDING MOTIONS:

None.

7. STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:

None.

8. OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT:

None at this time.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 4th day of September, 2008.

Respectfully submitted,

J.R. Kelly
Public Counsel


Stephen C. Burgess
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street
Room 812
Tallahassee, FL 32399-1400

Attorneys for the Citizens
of the State of Florida

DOCKET NO. 070693-SU
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by U.S. Mail and electronic mail to the following parties on this 4th day of September, 2008.

Ralph Jaeger, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

F. Marshal Deterding
2548 Blairstone Pines Dr.
Tallahassee, FL 32301
Phone: 850-877-65555
FAX: 656-4029


Stephen C. Burgess

DOCKET NO. 070693-SU
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing **PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL** has been furnished by U.S. Mail and electronic mail to the following parties on this 4th day of September, 2008.

Ralph Jaeger, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

F. Marshal Deterding
2548 Blairstone Pines Dr.
Tallahassee, FL 32301
Phone: 850-877-65555
FAX: 656-4029

Mr. Doug Carter
P.O. Box 2125
Key West, FL 33045-2125


Stephen C. Burgess