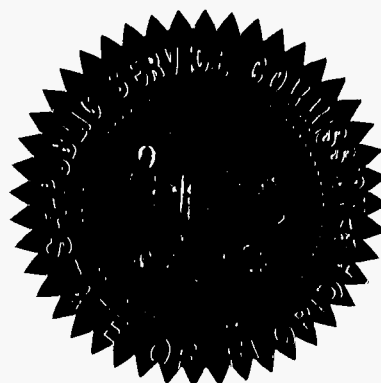


BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070293-SU

In the Matter of:

APPLICATION FOR INCREASE IN WASTEWATER
RATES IN MONROE COUNTY BY K W RESORT
UTILITIES CORP.



PROCEEDINGS: PREHEARING

BEFORE: COMMISSIONER NANCY ARGENZIANO
PREHEARING OFFICER

DATE: Monday September 15, 2008

TIME: Commenced at 1:30 p.m.
Concluded at 1:50 p.m.

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: JANE FAUROT, RPR
Official FPSC Reporter
(850) 413-6732

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1 APPEARANCES:

2 F. MARSHALL DETERDING, ESQUIRE, and JOHN WHARTON,
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4 Tallahassee, Florida 32301, appearing on behalf of K W Resort
5 Utilities Corp.

6 STEVE BURGESS, ESQUIRE, Office of Public Counsel, C/o
7 The Florida Legislature, 111 W. Madison Street, Room 812,
8 Tallahassee, Florida 32399-1400, appearing on behalf of the
9 Citizens of the State of Florida.

10 RALPH JAEGER, ESQUIRE, FPSC General Counsel's Office,
11 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850,
12 appearing on behalf of the Commission Staff.

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P R O C E E D I N G S

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2 **COMMISSIONER ARGENZIANO:** If everybody would take a
3 seat. Let's call the prehearing to order.

4 Good morning, everyone. Is staff ready to go?

5 **MR. HARRIS:** Afternoon.

6 **COMMISSIONER ARGENZIANO:** I'm sorry. Thank you,
7 Larry, although you could have went along with me. (Laughter.)

8 Thank you very much. Okay. If staff would please
9 read the notice.

10 **MR. JAEGER:** Yes, Commissioner.

11 Pursuant to notice, this time and place was set for a
12 Prehearing Conference in Docket Number 070293-SU, application
13 for an increase in wastewater rates in Monroe County by K W
14 Resort Utilities Corp.

15 **COMMISSIONER ARGENZIANO:** All right.

16 Let's take appearances.

17 **MR. WHARTON:** John Wharton and Marty Deterding on
18 behalf of K W.

19 **MR. BURGESS:** Commissioner, I'm Steve Burgess. I'm
20 here on behalf of the Office of Public Counsel representing the
21 Citizens of the State of Florida.

22 **MR. JAEGER:** Ralph Jaeger on behalf of the
23 Commission, and Mary Anne Helton is here as an advisor to the
24 Commissioners.

25 **COMMISSIONER ARGENZIANO:** Great. Good afternoon to

1 everyone.

2 Are there any preliminary parties that we need to
3 address before we proceed?

4 **MR. JAEGER:** The Utility has handed out a sheet of
5 paper where they have changed or added to their basic position,
6 Issue 2, 3, 5, 13, and 16. So when we get to those, I think we
7 can address the Utility's handout at that time. Also, I think
8 Mr. Burgess will have some changes to about five issues, or
9 some clarification to five issues. And I think when we get to
10 those issues we can address Mr. Burgess' position at that time.

11 **MR. BURGESS:** Yes. Madam Chair, may I ask staff if
12 the -- I'm using the draft that I received by e-mail that you
13 put together about four days ago.

14 **MR. JAEGER:** 10:30 on Friday should be the most
15 recent one.

16 **MR. BURGESS:** Thank you.

17 **COMMISSIONER ARGENZIANO:** Okay, great. So let's go
18 through the draft prehearing order now, and I will identify
19 section-by-section, and we want to really hear from the parties
20 loud and clear. Stop me if I move too fast, if we have any
21 corrections or changes, please.

22 Case background.

23 **MR. JAEGER:** Nothing.

24 **COMMISSIONER ARGENZIANO:** Conduct of proceedings.

25 **MR. JAEGER:** Nothing here.

1 **COMMISSIONER ARGENZIANO:** Jurisdiction.

2 **MR. JAEGER:** Nothing here.

3 **COMMISSIONER ARGENZIANO:** Procedure for handling
4 confidential information.

5 **MR. JAEGER:** Nothing here.

6 **COMMISSIONER ARGENZIANO:** Prefiled testimony and
7 exhibits; witnesses.

8 **MR. JAEGER:** Generally, five minutes is typically
9 provided. It's up to the parties and you, the Prehearing
10 Officer, about witness summaries.

11 **COMMISSIONER ARGENZIANO:** Mr. Burgess.

12 **MR. BURGESS:** I think five minutes should be enough
13 for us.

14 **MR. WHARTON:** It tends to grow. Whatever you set it
15 as, we'll want more. That's probably fine. It's hard, but --

16 **COMMISSIONER ARGENZIANO:** All right. We'll make that
17 happen. We'll do the five minutes, hearing no objections.

18 Order of witnesses, please.

19 **MR. JAEGER:** In the order of witnesses we list also
20 the issues they are on. And in that filing of the utility,
21 they added Castle as No. 13, so Castle is in rebuttal, and we
22 need to add Issue No. 13 on that.

23 **COMMISSIONER ARGENZIANO:** And Issue No. 13. We are
24 all okay?

25 **MR. JAEGER:** And right now there is no stipulation as

1 to any witnesses being stipulated in. And I think the parties
2 have agreed that Staff Witness Johnson may be excused from
3 attending the hearing on the first day if it appears that the
4 hearing will go two days. What staff was planning on doing was
5 having him on call, and see if he was going to be needed on the
6 first day, and then if he is not, he would be available on the
7 second day.

8 **COMMISSIONER ARGENZIANO:** Any objections or any
9 problems with that?

10 **MR. BURGESS:** No.

11 **MR. WHARTON:** No.

12 **COMMISSIONER ARGENZIANO:** All right.

13 Let's move on to basic positions.

14 **MR. JAEGER:** I don't think OPC has any more changes
15 to their basic position. And in their piece of paper they
16 handed out today, the Utility has made an addition, is my
17 understanding, it's not a change it's an addition to the
18 Utility's basic position, and we will add that to the
19 prehearing order, absent any objection or --

20 **COMMISSIONER ARGENZIANO:** I don't hear any
21 objections. Okay. Make it so.

22 And issues and positions?

23 **MR. JAEGER:** I have no change to Issue 1 that I'm
24 aware of.

25 **MR. BURGESS:** Commissioner, we have no position at

1 this time, which is something that -- I think it's at this
2 point where we are to take a position. This is an issue,
3 though, that is obviously directly impacted by the testimony
4 offered by the customers. And until that is provided to the
5 Commission, our position would be you don't have the necessary
6 information to make a decision. So I would like to say either
7 no position pending customer testimony or leave it at this,
8 whichever your preference is.

9 **COMMISSIONER ARGENZIANO:** I think we could put a no
10 position pending customer testimony.

11 **MR. JAEGER:** No position pending customer testimony.

12 **MR. BURGESS:** Pending customer testimony. Thank you.

13 **MR. JAEGER:** That will be a change.

14 **COMMISSIONER ARGENZIANO:** Any objections? Okay.
15 Anything else under issues and positions?

16 **MR. JAEGER:** That was Issue 1.

17 Then Issue 2, the utility has an addition. Staff had
18 no other changes to Issue 2.

19 **COMMISSIONER ARGENZIANO:** How are we there? Do you
20 need a minute, Mr. Burgess?

21 **MR. BURGESS:** No objection. I'm sorry, no objection.

22 **MR. WHARTON:** I guess, Commissioner, we could deal
23 with these, obviously, individually to the extent you would
24 like, but when it is the parties' position, I'm not sure it
25 really matters. But there were some last minute additions to

1 positions, and we have added one. They are just additions,
2 they don't replace any of this language. We just want them
3 laid on top of a few certain issues, but it just goes under our
4 position.

5 **MR. BURGESS:** And I might add we have no objection to
6 those which the company supplied. We have no objection.

7 **COMMISSIONER ARGENZIANO:** No objection to all of
8 them? Okay. Staff.

9 **MR. BURGESS:** To any of the list that I have --

10 **MR. JAEGER:** They added 2 through 5, and then we can
11 get to -- 13 was an addition of Castle, and then 16 would be
12 the next one where we may have a little bit of discussion on, I
13 think. But 2, 3, and 5 are the additions, and then Issue 16
14 would be the next one to take in line.

15 **COMMISSIONER ARGENZIANO:** Okay. So let's go to Issue
16 16.

17 **MR. JAEGER:** I talked with Mr. Burgess at the
18 beginning, just before the prehearing, and he was in agreement
19 that Stipulation 4 takes care of part of his position on Issue
20 16. And so OPC, the way I understand it, OPC would say yes,
21 and then cross everything out through additionally, and then at
22 the very last line, "working capital should be reduced by the
23 amortized balance of rate case expense," leave that in.

24 **MR. BURGESS:** That's correct. The first issue that
25 we have there of 168,000 was taken care of by stipulation, and

1 therefore our last sentence is the only one that describes
2 anything that's in dispute.

3 **COMMISSIONER ARGENZIANO:** The last sentence?

4 **MR. BURGESS:** Yes. Additionally, working capital
5 should be reduced by --

6 **MR. JAEGER:** We would just take out the word
7 additionally.

8 **MR. BURGESS:** Yes.

9 **COMMISSIONER ARGENZIANO:** Okay. So remove the word
10 additionally. Any problems, any objections?

11 **MR. BURGESS:** Thank you, Commissioner.

12 **MR. WHARTON:** I just want to make sure I didn't get
13 lost here. Are we kind of sweeping in the issues that we have
14 no objection to?

15 **MR. JAEGER:** There is something we will have to go
16 back on.

17 Office of Public Counsel's Issues 14, 15, 17, 33, and
18 34, Steve, do you want to --

19 **MR. BURGESS:** Yes. Commissioner, these are issues,
20 all of these are issues that are fallout issues, for want of a
21 better term. What's the total rate base, what's the total
22 accumulated depreciation. And my typical way of addressing
23 that is something to the effect of this issue is subject to the
24 Commission's determination on the aggregate of a number of
25 other issues. And I guess -- so I would intend to put

1 something like that in there.

2 The only other thing that I could add is something
3 that reflects what our position would be if the Commission
4 agrees with us on all the issues, all the subissues that affect
5 that particular fallout. I could come up with a number and put
6 that in there, if the Commission finds that useful.

7 **COMMISSIONER ARGENZIANO:** Staff, what do you suggest?

8 **MR. JAEGER:** That would be satisfactory with staff,
9 however you want to do that.

10 **COMMISSIONER ARGENZIANO:** That would work well.

11 **MR. WHARTON:** Our only concern was reading update to
12 be provided, we weren't sure if that was referring to -- that
13 the witness was going to provide something, so we would reserve
14 the right to object. But the way Steve has explained it --

15 **MR. BURGESS:** Yes, it was. Basically, this was in
16 response to some of the issues that were raised at the
17 deposition of our witness wherein she said I agree with the
18 company, this should not be adjusted, and therefore my bottom
19 line that I originally had will be adjusted. She is providing
20 that aggregation as a late-filed deposition exhibit, and I was
21 going to put that in here.

22 So what I would like to do, if I could, is simply
23 change these where I reference the rebuttal testimony, and
24 change the wording to something to the effect of this is
25 subject to the Commission's decision on other issues. And then

1 something to the effect that should the Commission adopt all
2 OPC positions, this amount will be -- and then put in a dollar
3 amount.

4 **MR. JAEGER:** How soon do you think you could provide
5 that?

6 **MR. BURGESS:** I was hoping to have it by the
7 prehearing conference. I am hopeful to have it by this
8 afternoon, that way I can electronically transfer it to you and
9 KWRU.

10 **MR. JAEGER:** I'm leaving on sick leave right after
11 this. Tomorrow morning would be fine with me, but that's fine.
12 You can send it by e-mail and send it to --

13 **COMMISSIONER ARGENZIANO:** Does that work for
14 everybody?

15 **MR. BURGESS:** Yes.

16 **COMMISSIONER ARGENZIANO:** Great. So then we have --
17 did we fully do Issue 16? No, wait, didn't we --

18 **MR. JAEGER:** Yes. That took care of Issue 16, and
19 also the remaining Issues of 14, 15, 17, 33, and 34.

20 **COMMISSIONER ARGENZIANO:** Okay. Let's move to the
21 exhibit list.

22 **MR. JAEGER:** I believe the next is Section IX, the
23 exhibit list. And what staff will do is prepare a
24 Comprehensive Exhibit List consisting of all the prefiled
25 exhibits, and that will be like an index for the purpose of

1 numbering and identifying all the exhibits at hearing. And
2 then staff will provide that list to the parties as soon as
3 possible. We have got it pretty much done. We are almost
4 complete on that.

5 Also, staff will provide a list of all
6 interrogatories and production of documents that it plans to
7 enter into evidence, which we will propose as Composite Exhibit
8 2, and that will be provided to the parties hopefully within
9 the next day or two, also.

10 **COMMISSIONER ARGENZIANO:** Okay.

11 Mr. Wharton. Mr. Burgess.

12 **MR. BURGESS:** Commissioner, might I go back to one of
13 the issues?

14 **COMMISSIONER ARGENZIANO:** Certainly.

15 **MR. BURGESS:** This is about miscellaneous expenses.
16 And I have to track down -- there was a recommended adjustment
17 for two very small items. Aggregately, I think they are around
18 the neighborhood of \$100. One is for an advertisement, I
19 believe, and one is for a bouquet of flowers. And I think they
20 are in a miscellaneous somewhere. I wanted to have leave to
21 incorporate them into the proper issue number. They are raised
22 in the testimony. We have them explicit in the testimony, and
23 I'm just not sure I picked them up in the proper --

24 **COMMISSIONER ARGENZIANO:** Staff, can you identify
25 where they are at?

1 **MR. BURGESS:** It may be one that has already been
2 agreed to. If it is agreed to, then obviously I don't need --

3 **COMMISSIONER ARGENZIANO:** Okay. Let's see what we
4 come up with here.

5 **MR. JAEGER:** There is an Issue 30, should any
6 adjustments be made to miscellaneous expenses.

7 **MR. BURGESS:** Yes. It's the miscellaneous expense --

8 **COMMISSIONER ARGENZIANO:** That's Issue 30?

9 **MR. BURGESS:** You will see that I put four
10 adjustments that we were looking for, and I think I did not put
11 in that which is referenced --

12 **COMMISSIONER ARGENZIANO:** Right. I don't see the --

13 **MR. BURGESS:** -- in Dismukes' testimony on Page 84.
14 It was a Rotary Club donation and a \$61 Blossoms in Paradise.

15 **COMMISSIONER ARGENZIANO:** So it's not a \$100 bouquet
16 of flowers?

17 **MR. BURGESS:** Oh, no, it was more frugal than that.

18 **MR. JAEGER:** In your e-mail correcting the other
19 issues, would you just add that or show how you want that
20 corrected?

21 **MR. BURGESS:** If I have leave?

22 **COMMISSIONER ARGENZIANO:** Yes.

23 **MR. BURGESS:** Thank you.

24 **COMMISSIONER ARGENZIANO:** Tomorrow morning, possibly?

25 **MR. BURGESS:** Yes, certainly.

1 **COMMISSIONER ARGENZIANO:** So anything else? I
2 guess -- are you finished, staff, on the exhibits?

3 **MR. JAEGER:** That concluded Section IX, yes.

4 **COMMISSIONER ARGENZIANO:** Okay. Proposed
5 stipulations.

6 **MR. JAEGER:** Parties have agreed to the
7 eleven stipulations noted.

8 **COMMISSIONER ARGENZIANO:** Okay. Pending motions.

9 **MR. JAEGER:** There are none.

10 **COMMISSIONER ARGENZIANO:** Pending confidentiality
11 motions?

12 **MR. JAEGER:** There are none.

13 **COMMISSIONER ARGENZIANO:** None.

14 And post-hearing procedures.

15 **MR. JAEGER:** I believe what we're showing there is
16 50 -- the number of words in the post-hearing position is 50,
17 and the post-hearing briefs is 40, and I don't know that the
18 parties have any problem with that.

19 **COMMISSIONER ARGENZIANO:** I'll give them a minute to
20 think about it.

21 Mr. Burgess.

22 **MR. BURGESS:** Well, almost all the issues are easy
23 enough to deal with the position in 50 words and then the
24 explanation in the body. Some of them where the issue, as the
25 one we're talking about on miscellaneous, subsumes five or six

1 different adjustments or proposed adjustments in controversy.
2 Even listing what they are can end up taking more than
3 50 words. As a rule, I don't need more than 50 words, but --

4 **MR. WHARTON:** I was also going to comment that
5 41 issues, even to the extent there could be some consolidation
6 in the presentation in 40 pages is a little tight.

7 **COMMISSIONER ARGENZIANO:** Have either of you
8 recommended -- what would you think would encompass, without
9 being tight, would give you enough room and be proper?

10 Do you have a suggestion, Mr. Burgess, and then Mr.
11 Wharton?

12 **MR. BURGESS:** Well, I mean --

13 **COMMISSIONER ARGENZIANO:** I can come up with
14 something, but I'm trying to ask you guys.

15 **MR. BURGESS:** On the number of words for position,
16 I'm really at a little bit of a loss because I don't think you
17 want to say 100 when it only applies to about three issues, two
18 or three issues. Perhaps, I don't know, I guess I would go
19 through and have to identify the issues that explicitly or
20 should have already identified the issues that would take more
21 than 50 words, but --

22 **COMMISSIONER ARGENZIANO:** So you are concerned more
23 with the 40 on the --

24 **MR. BURGESS:** Yes. My concern is more with the 40.

25 **COMMISSIONER ARGENZIANO:** Okay. Any suggestion?

1 **MR. WHARTON:** I have less problem with the 50 than --
2 I think that the pages should probably be more in the 55/60
3 range. I don't think that is much of an extra burden on staff
4 and the Commission, considering it is a full hearing and given
5 the number of issues.

6 **COMMISSIONER ARGENZIANO:** Okay. Staff.

7 **MR. JAEGER:** Staff has no problem with, like,
8 55 pages on the briefs.

9 **COMMISSIONER ARGENZIANO:** Let's do the 55. What
10 about the 40?

11 **MR. JAEGER:** And I believe if Steve could say, maybe,
12 except for issues such -- you know, the three issues, if he
13 could send that in the e-mail, then we could put that in.
14 Would the utility have any problem with that if he limits it
15 except for issue such-and-such, and then for those issues, what
16 do you think you would need, 70?

17 **MR. BURGESS:** At most. And, quite frankly,
18 Commissioner, I think that we may be able to do it within 50.
19 We may just put a little list, you know, the following
20 adjustments. And I would endeavor to do that. But if I may,
21 if I may send back with the e-mail on the other information
22 those issues for which we would ask, if necessary, leave to
23 exceed 50 words for the description of our position.

24 **COMMISSIONER ARGENZIANO:** Okay. Any problems, any
25 objections?

1 **MR. WHARTON:** (Indicating no.)

2 **COMMISSIONER ARGENZIANO:** Okay. Staff.

3 **MR. JAEGER:** That sounds good.

4 **COMMISSIONER ARGENZIANO:** Okay. You have a lot to do
5 to send back tomorrow, don't you?

6 Okay. Rulings.

7 **MR. JAEGER:** The only thing I have is we usually
8 suggest that the Prehearing Officer make a ruling that opening
9 statements, if any, should not exceed ten minutes.

10 **COMMISSIONER ARGENZIANO:** Are you comfortable?

11 **MR. WHARTON:** I think that's fine. I guess the only
12 think I would note, and I don't think anyone will care, is
13 Marty and I tend to divide these cases up, and so we might
14 actually -- I would talk for five and Marty would talk for
15 five.

16 **COMMISSIONER ARGENZIANO:** Okay.

17 **MR. BURGESS:** Okay. Ten minutes is good for me.

18 **COMMISSIONER ARGENZIANO:** So ordered. Other matters?

19 **MR. JAEGER:** I know of no other matters at this time.

20 **COMMISSIONER ARGENZIANO:** Okay. Well, thank you.

21 Everybody have a good afternoon, and we are

22 adjourned.

23 (The prehearing concluded at 1:50 p.m.)

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STATE OF FLORIDA)

: CERTIFICATE OF REPORTER

COUNTY OF LEON)

I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 18th day of September, 2008.



JANE FAUROT, RPR
Official FPSC Hearings Reporter
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