

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: In re: Application for increase in /
wastewater rates in Monroe County by KW /
Resort Utilities Corp. /
/

Docket No: 150071-SU

Filed: May 12, 2016

**JOINT RESPONSE TO K W RESORT UTILITIES CORP.'S MOTION FOR LEAVE TO
SERVE INTERROGATORIES IN EXCESS OF THE 30 INTERROGATORIES
ALLOWED PURSUANT TO FLA. R. CIV. P 1.340(A).**

The Office of Public Counsel (OPC), on behalf of the Citizens of the State of Florida and the customers of K W Resort Utilities Corp (KWRU or Utility) and Monroe County (the Joint Respondents) hereby file this joint response, pursuant to Rule 28-106.204(1), Florida Administrative Code (F.A.C.), to KWRU's motion for leave to serve interrogatories in excess of the 30 interrogatories allowed by Fla. R. Civ. P 1.340(a), (Motion) and in support thereof, state:

1. On May 5, 2016, KWRU filed a motion for leave to serve interrogatories in excess of the 30 interrogatories allowed by Fla. R. Civ. P 1.340(a).
2. KWRU requested leave to serve up to seventy-five (75) interrogatory requests upon each Petitioner, and that all parties be able to serve seventy-five (75) interrogatories.
3. The Joint Respondents do not object to KWRU requesting leave to serve 75 interrogatories prior to the issuance of the Pre-hearing Officer's Order Establishing Procedure (OEP); however, the Joint Respondents do object to being limited to 75. The Joint Respondents respectfully suggest that the appropriate number of interrogatories and requests for productions should be 300 each, along with 100 requests for admission. The size and scope of the disputed issues of material fact

in this case are similar to other protested cases where the Commission established comparable discovery procedures. *See* Order No. PSC-12-0526-PCO-WU (WMSI OEP allowed 300 interrogatories, 300 requests for production of documents, and 100 requests for admission); Order No. PSC-11-0309-PCO-WS (AUF OEP allowed 350 additional interrogatories, 350 requests for production of documents, and 350 requests for admission).

4. The Joint Respondents believe that KWRU's Motion is premature given that the Commission has yet to issue an OEP, no issue identification meeting has been held to harmonize the lengthy list of disputed issues, no factual discovery has been conducted by the Joint Intervenors, and no official date for the hearing has been established.¹ For these reasons, KWRU's service of its first set of discovery and Motion to enlarge interrogatories is premature.

5. At the appropriate time, the Joint Respondents will dispute the rate case expense incurred by KWRU for preparing this Motion and its first set of discovery. The Joint Respondents will make the appropriate general and specific objections to KWRU's discovery at the appropriate time according to the Rules of Civil Procedure.

6. If the Commission issues an OEP establishing discovery procedures prior to the Pre-hearing Officer's ruling on KWRU's Motion, then KWRU's Motion becomes moot.

WHEREFORE, the Office of Public Counsel and Monroe County respectfully request that the Commission grant in part and deny in part K W Resort Utilities Corp.'s Motion for Leave to Serve Interrogatories in Excess of the Thirty (30) allowed pursuant to Fla. R. Civ. P.1.340(a), and

¹ KWRU did not comply with the requirements in Rule 28-106.204(3) F.A.C., to consult with all parties of record in the docket and state whether any party objects to the Motion. Consulting with the Joint Respondents would likely have obviated the need for its Motion and this Joint Response.

respectfully suggest that the appropriate number of interrogatories and requests for production of documents should be 300 each, along with 100 requests for admission.

J.R. KELLY
PUBLIC COUNSEL



Erik L. Saylor
Associate Public Counsel

Office of Public Counsel
c/o The Florida Legislature
111 West Madison Street, Rm. 812
Tallahassee, FL 32399-1400
(850) 488-9330
Saylor.Erik@leg.state.fl.us

Attorney for the Citizens
of the State of Florida



Robert Scheffel Wright, Esquire
John T. LaVia, III, Esquire
Gardner, Bist, Bowden, Bush, Dee, LaVia &
Wright, P.A.
1300 Thomaswood Drive
Tallahassee, FL 32308
schef@gbwlegal.com
jlavia@gbwlegal.com

Attorneys for Monroe County

CERTIFICATE OF SERVICE
DOCKET NO. 150071-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing **Joint Response to KWRU's motion for leave to serve interrogatories in excess of the 30 interrogatories allowed by Fla. R. Civ. P 1.340(a)**, has been furnished by electronic mail to the following parties on this 12th day of May, 2016.

Jennifer Crawford
Florida Public Service Commission
2540 Shumard Oak Blvd., Room 110
Tallahassee, FL 32399-0850
jcrawfor@psc.state.fl.us

Martin S. Friedman, Esquire
Friedman Law Firm
766 N. Sun Drive, Suite 4030
Lake Mary, FL 32746
mfriedman@ff-attorneys.com

Barton W. Smith, Esquire
SMITH OROPEZA HAWKS, P.L.
138-142 Simonton Street
Key West, FL 33040
Telephone: (305) 296-7227
Fax: (305) 296-8448
bart@smithoropeza.com

Harbor Shores Condominium Unit
Owners Association Inc.
Ann M. Aktabowski
6800 Maloney Ave., Unit 100
Key West FL33040
(770) 862-6200
HarborShoresHOA@gmail.com



Erik L. Sayler
Associate Public Counsel