

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for increase in wastewater  
rates in Monroe County by K W Resort  
Utilities Corp.

DOCKET NO. 20170141-SU

FILED: April 17, 2018

**PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL**

The Citizens of the State of Florida, through the Office of Public Counsel (“OPC”), pursuant to the Order Establishing Procedure in this docket, Order No. PSC-2018-0039-PCO-SU, issued January 12, 2018 hereby submit this Prehearing Statement.

**APPEARANCES:**

ERIK L. SAYLER  
Associate Public Counsel

Office of Public Counsel  
c/o The Florida Legislature  
111 West Madison Street, Room 812  
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On behalf of the Citizens of the State of Florida

1. **WITNESSES:**

<b>Witness</b>	<b>Subject Matter</b>	<b>Issue #</b>
<b>Direct</b>		
Helmuth W. Schultz, III	Rate Base, Net operating income, and Capital structure	4-7, 9-14, 18-34
Andrew T. Woodcock	Quality of Service, Pro forma plant additions, and Asset management program	1, 2, 4, 45

2. EXHIBITS:

<b>Witness</b>	<b>Proffered By</b>	<b>Exhibit #</b>	<b>Description</b>
<b>Direct</b>			
Helmuth W. Schultz	OPC	Appendix	Qualifications of Helmuth W. Schultz, III
Helmuth W. Schultz	OPC	Exhibit HWS-1	OPC Revenue Requirement Exhibit
Helmuth W. Schultz	OPC	Exhibit HWS-2	Composite Exhibit: Discovery and Other References
Andrew T. Woodcock	OPC	Exhibit ATW-1	Resume of Andrew T. Woodcock
Andrew T. Woodcock	OPC	Exhibit ATW-2	Composite Exhibit
Andrew T. Woodcock	OPC	Exhibit ATW-3	Evoqua Davco FEC Websites
Andrew T. Woodcock	OPC	Exhibit ATW-4	Three Bids for Wekiva WWTP
Andrew T. Woodcock	OPC	Exhibit ATW-5	Rehabilitation Project
Andrew T. Woodcock	OPC	Exhibit ATW-6	EPA's Asset Management resources for Small Drinking Water Systems
Andrew T. Woodcock	OPC	Exhibit ATW-7	UIF's Operations Management System

3. STATEMENT OF BASIC POSITION:

K W Resorts Utility, Corp. (KWRU, Utility, or Company) has the burden of proof to support its requested rate increase. *Florida Power Corp. v. Cresse*, 413 So. 2d 1187 (1982). It is neither the Intervenor's nor staff's burden to place evidence in the record to support KWRU's requested rate increase. Order No. PSC-07-0129-SC-WS, issued February 14, 2007, in Docket No. 060262-WS. The parties of record have the duty to establish the hearing record in this case and the Commission's decision must be based upon that hearing record.

Consistent with the Commission's decision in 2017 in KWRU's last rate case and to accommodate known and measurable growth, the Commission should apply the matching principle to the rates and charges in the first year new rates will be in effect. As the Commission noted in that decision, increasing the Utility's costs and expenses without increasing known and measurable revenues from anticipated growth, or failing to adjust the billing determinants

(factored ERCs and gallons) for that anticipated growth, is a violation of the matching principle. The Commission should also carefully examine the pro forma plant additions requested by KWRU, especially these pro forma plant additions which were only supported by a sole source bid.

In this case, KWRU is requesting a \$1,349,960 (or 57.9%) rate increase. That is the amount requested in its direct case *prior* to the filing of Intervenor testimony. OPC Witness Schultz opined that approximately \$701,267 was supported by the evidence. He made adjustments to the Utility's rate base, net operating income, and capital structure based on the recommendations of OPC Witness Woodcock's review of KWRU's requested pro forma plant additions, as well as his own investigation into and evaluation of the Utility's direct case. These recommended adjustments are reasonable and consistent with the Commission's decision in prior rate cases. In rebuttal, KWRU has increased its original request by amending its minimum filing requirement ("MFR") schedules.

Notable recommended adjustments - Witness Schultz recommends that working capital cash should remain the same balance that the Commission approved last year in KWRU's last rate case. He recommends that the entirety of the \$288,000 modular office pro forma plant addition be removed. In its direct and rebuttal, KWRU claimed that the cost of the modular office will not exceed \$250,000; however, it is inappropriate for the Commission to plug a "not to exceed" number into rate base. Witness Schultz further recommends reductions to salaries and pension expenses and officers' compensation, the elimination of duplicative expenses (i.e., the duplicative phone system), and other reductions to expenses in net operating income. His recommendations are summarized on pages 14 and 15 of his prefiled testimony.

OPC Witness Woodcock recommends a percentage reduction to pro forma plant additions that were only supported by a sole source bid. A prudent utility should seek more than one

competitive bid to ensure that its customers benefit from the least cost and best option. Therefore, the Commission should reduce the plant in service amount by 11.7% for this imprudent practice. Witness Woodcock also recommends the implementation of a robust asset management program to complement KWRU's nascent preventive maintenance activities. Doing so will benefit the Company and its customers in the long run.

Last, the Commission should not allow KWRU to increase its originally requested rate increase through rebuttal testimony. KWRU revised several of its MFR schedules in rebuttal, after Intervenor testimony was filed, increasing its revenue requirement beyond what it requested in its direct case. KWRU has full control over the expenses it includes in its MFRs and which test year it selects, thus allowing KWRU to modify its MFRs at such a late juncture ignores the purpose of these two ratemaking concepts to the detriment of the customers. Therefore, in the interest of due process, the Commission should strike these revisions or, in the alternative, restart the statutory time clock from the date KWRU filed its rebuttal testimony. Because KWRU chose to modify or revise its original MFRs filed with its direct case, the Intervenors have a right to request that this revised information be struck from the Company's rebuttal testimony, or that additional time for discovery, additional testimony, and new hearing dates be established in order to protect the customers' due process rights.

#### 4. STATEMENT OF FACTUAL ISSUES AND POSITIONS:

##### Quality of Service

**ISSUE 1** Is the quality of service provided by K W Resort satisfactory?

OPC: The condition of the wastewater treatment plant does not appear to be unsatisfactory, but Witness Woodcock testified that KWRU should begin applying asset management principles to its operations and planning activities. If properly implemented, it should result in reduced costs and improved levels of service, benefiting the customer and utility alike.

The customer quality of service is unknown. KWRU claims to have few customer complaints. The customers will have an opportunity to testify at the two quality of service hearings held on May 15 and 16 and that testimony will form the basis of OPC's final position on this issue.

##### Rate Base

###### **Contested Issue A:**

Did the Utility have a reasonable and prudent amount of insurance coverage for damages associated with Hurricane Irma?

OPC: Based on the proffer of less than \$20,000 from the insurance company for hurricane damage to the modular office and because the estimated replacement cost of the modular office is "not to exceed a quarter of a million dollars," KWRU did not have adequate insurance to cover foreseeable damage to and replacement of its modular office and other facilities.

**Contested Issue B:**

Did the Utility reasonably and prudently pursue insurance claims for damages associated with Hurricane Irma?

OPC: Since KWRU has not received final settlement of its insurance claims, it appears that KWRU may not have reasonably and prudently pursued its claims.

**ISSUE 2** Was the Utility’s use of single source bidding reasonable and prudent for certain pro forma plant additions, and if not, what action should the Commission take regarding these pro forma projects?

OPC: No. A prudent utility would obtain multiple bids even if one potential bidder owns all the intellectual property, thereby allowing an apples to apples comparison of bids. Since some of the “single source bidding” pro forma plant items have not been placed into service, the Commission should reduce rate base for these plant items by the percentage recommended until KWRU’s next rate change proceeding and, in that proceeding, the Commission can verify the prudence of the expenditure after the plant is placed into service.

**ISSUE 3** What adjustments, if any, should be made to account for the audit findings related to rate base?

OPC: Utility Plant in Service should be decreased by \$8,128, Accumulated Depreciation should be increased by \$2,619, and Working Capital should be decreased by \$20,160.

**ISSUE 4** What is the appropriate amount of plant in service to be included in rate base?

OPC: The appropriate amount of Utility Plant in Service to be used in setting rates should be \$19,226,696, pending further evidence adduced at the hearing.

**ISSUE 5** What is the appropriate amount of accumulated depreciation to be included in rate base?

OPC: The appropriate amount of Accumulated Depreciation to be used in setting rates should be \$6,242,436, pending further evidence adduced at the hearing.

**ISSUE 6** What is the appropriate amount of CIAC to be included in rate base?

OPC: The appropriate amount of CIAC to be used in setting rates should be \$10,406,318, pending further evidence adduced at the hearing.

**ISSUE 7** What is the appropriate amount of accumulated amortization of CIAC to be included in rate base?

OPC: The appropriate amount of accumulated amortization of CIAC to be used in setting rates should be \$3,898,064, pending further evidence adduced at the hearing.

**ISSUE 8** What are the used and useful percentages of the Utility's wastewater treatment plant and wastewater collection system?

OPC: OPC does not contest the used and useful percentages approved by the Commission in the last rate case; however, OPC cannot stipulate to extraneous language in

KWRU Witness Seidman's Schedule F-6, 1 of 2, notes, second paragraph. If the language from the second paragraph was struck from Schedule F-6, then OPC would stipulate both to this issue and the excusal of Frank Seidman.

**ISSUE 9** What is the appropriate working capital allowance to be included in rate base?

OPC: In addition to the audit adjustments, the following adjustments should be made to reduce the working capital allowance which results in a balance of \$1,222,459, pending further evidence adduced at the hearing.

Reduce Cash to a reasonable balance (\$593,848)

Remove Interest Bearing Deposits (\$281,123)

Adjust the Unamortized portion of Prior Rate Case Expense (\$29,055)

Remove the Unamortized Debt Discount & Exp (\$43,206)

Adjust the unamortized portion of Hurricane Expense (\$29,281)

**ISSUE 10** What is the appropriate rate base? (fall out)

OPC: The appropriate amount of rate base to be used in setting rates should be \$5,421,208, pending further evidence adduced at the hearing.

#### Cost of Capital

**ISSUE 11** What is the appropriate capital structure?

OPC: The appropriate capital structure, reconciled to rate base, should reflect \$2,639,789 in long-term debt, \$2,580,378 in Equity, and \$201,041 in customer deposits.



**ISSUE 12** What is the appropriate return on equity?

OPC: The appropriate return on equity is 10.39%.

**ISSUE 13** What is the appropriate cost of long-term debt?

OPC: The appropriate cost of long-term debt is 4.88%.

**ISSUE 14** What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure?

OPC: The appropriate weighted average cost of capital is 7.40%.

#### Net Operating Income

**ISSUE 15** What are the appropriate billing determinants (factored ERCs and gallons) to use to establish test year revenues?

OPC: Pending further receipt of discovery, the appropriate billing determinants (factored ERCs and gallons) to use to establish test year revenues are those included on Schedule E-2 of the MFRs.

**ISSUE 16** What are the appropriate test year revenues?

OPC: The appropriate test year revenues are \$2,353,316, pending further evidence adduced at the hearing.

**ISSUE 17** What adjustments, if any, should be made to account for the audit findings related to net operating income?

OPC: Test year revenues should be increased by \$20,789, Miscellaneous Expense should be reduced by \$2,100.

**ISSUE 18** What is the appropriate amount of salaries and wage expense?

OPC: The appropriate amount of salaries and wage expense for employees and officers is \$848,011, pending further evidence adduced at the hearing.

**ISSUE 19** What is the appropriate amount of employee pensions & benefits expense?

OPC: The appropriate amount of employee pensions & benefits expense is \$141,161, pending further evidence adduced at the hearing.

**ISSUE 20** What is the appropriate amount of sludge hauling, chemicals, and purchased power expenses?

OPC: The appropriate amounts of sludge hauling, chemicals, and purchased power expenses are as follows: sludge hauling expense: \$141,325, chemical expense: \$231,742, and purchased power expense: \$218,766, pending further evidence adduced at the hearing.

**ISSUE 21** What is the appropriate amount of materials and supplies expense?

OPC: The appropriate amount of materials and supplies expense is \$49,063, pending further evidence adduced at the hearing.

**ISSUE 22** What is the appropriate amount of contractual services – engineering expense?

OPC: The appropriate amount of contractual services – engineering expense is \$10,013, pending further evidence adduced at the hearing.

**ISSUE 23** What is the appropriate amount of rental of equipment expense?

OPC: The appropriate amount of rental of equipment expense is zero.

**ISSUE 24** What is the appropriate amount of insurance – worker’s comp expense?

OPC: The appropriate amount of insurance – worker’s comp expense is \$27,234, pending further evidence adduced at the hearing.

**ISSUE 25** What is the appropriate amount of bad debt expense?

OPC: The appropriate amount of bad debt expense is zero.

**ISSUE 26** What is the appropriate amount to be recovered by the Utility for storm restoration expenses due to Hurricane Irma, and over what period should such expenses be recovered?

OPC: The appropriate amount for storm restoration expenses due to Hurricane Irma to be recovered by the Utility is \$177,536, pending further evidence adduced at the hearing. These expenses should be recovered over 5 years.

**ISSUE 27** What is the appropriate amount of miscellaneous expense?

OPC: The appropriate amount of miscellaneous expense is \$185,594, pending further evidence adduced at the hearing.

**ISSUE 28** What are the appropriate amounts of the Utility's pro forma expenses?

OPC: OPC has no further adjustments to pro forma expenses at this time.

**ISSUE 29** What is the appropriate amount of rate case expense, and over what period should such expense be recovered?

OPC: The original requested amount of \$284,400 should be approved pending further discovery. The amount should be amortized over 4 years, for an annual expense of \$71,100. The Utility's requested rate case expense should be fully supported, not duplicative, and reasonable. Adjustments should be made to remove the filing fees from legal fees, and remove all duplicative and excessive legal fees and the costs incurred to submit and address deficiencies in the MFRs. It is not appropriate for the Utility to seek reimbursement from its ratepayers to have two attorneys reviewing the same work product and attending the same meetings. Further, it is

the Utility's burden to show that the legal fees incurred are not duplicative. Customers should not pay double the rate case expense to have two attorneys review a discovery response, attend a conference call with staff, or attend the prehearing conference. Accounting fees should be reduced to remove duplicate filing costs to correct MFR deficiencies. All fees should be carefully reviewed to reflect a reasonable level of estimated hours to complete the case, pending further evidence adduced at the hearing.

**ISSUE 30** What, if any, further adjustments should be made to the Utility's O&M expense?

OPC: None known at this time.

**ISSUE 31** What is the appropriate amount of O&M expense? (fall out)

OPC: The appropriate amount of O&M expense is \$2,092,581, pending further evidence adduced at the hearing.

**ISSUE 32** What is the appropriate amount of depreciation expense?

OPC: The appropriate amount of depreciation expense is \$204,058, pending further evidence adduced at the hearing.

**ISSUE 33** What is the appropriate amount of Taxes Other Than Income?

OPC: The appropriate amount of Taxes Other Than Income is \$211,926, pending further evidence adduced at the hearing.

### Revenue Requirement

**ISSUE 34** What is the appropriate revenue requirement?

OPC: The appropriate revenue requirement is \$2,935,953, pending further evidence adduced at the hearing.

### Rate Structure and Rates

**ISSUE 35** What are the appropriate adjustments, if any, to test year billing determinants for setting final rates and charges?

OPC: The test year billing determinants should be increased by 1,386 ERC's and 10,540 gallons.

**ISSUE 36** What are the appropriate rate structure and rates for wastewater service?

OPC: No position, except the Commission should apply the matching principle.

### Other Issues

**ISSUE 37** What is the appropriate rate for KWRU's reuse service?

OPC: No position on the amount of the charge; however, the approved amount should be taken into account to reduce the revenues to be recovered through residential and general service rates.

**ISSUE 38** What are the appropriate miscellaneous service charges?

OPC: No position on the amount of the charge; however, the approved amount should be taken into account to reduce the revenues to be recovered through residential and general service rates.

**ISSUE 39** What is the appropriate late payment charge?

OPC: No position on the amount of the charge; however, the approved amount should be taken into account to reduce the revenues to be recovered through residential and general service rates.

**ISSUE 40** What is the appropriate Lift Station Cleaning charge?

OPC: No position on the amount of the charge; however, the approved amount should be taken into account to reduce the revenues to be recovered through residential and general service rates.

**ISSUE 41** What are the appropriate initial customer deposits?

OPC: There is no testimony on customer deposits.

**ISSUE 42** What are the appropriate Allowance for Funds Prudently Invested (AFPI) charges?

OPC: Pending further evidence adduced at the hearing, the appropriate AFPI charges are those included on Schedule E-10 of the MFRs.

**ISSUE 43** What is the appropriate amount by which rates should be reduced to reflect the removal of the amortized rate case expense?

OPC: The amount should be a fall out depending on how much rate case expense, if any, the Commission approves to be collected in customer rates.

**ISSUE 44** In determining whether any portion of the interim wastewater revenue increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

OPC: The interim rate refund, if any, should be calculated according to Commission policy and rule. This amount should be a fallout.

**ISSUE 45** Should the Utility maintain an asset management and preventive maintenance plan? If so, what action, if any, should be taken?

OPC: Yes. KWRU should focus on improving what it believes is an asset management and preventative maintenance planning process. Doing so will improve service, reduce costs, extend intervals between maintenance outages, and extend the life of valuable assets. Witness Woodcock testified that KWRU should begin applying asset management principles to its operations and planning activities. If properly implemented, it should result in reduced cost and improved levels of service, benefiting the customer and utility alike. Witness Woodcock pointed to some excellent asset management resources available on the website of the US Environmental Protection Agency. The Commission should put KWRU notice that it expects KWRU should take advantage of these resources between the conclusion of this rate case and its next rate case.



**ISSUE 46** Should the Utility be required to notify, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission-approved adjustments?

OPC: Yes, the Utility should be required to notify the Commission, in writing, that it has adjusted its books, and if the Utility fails to do so, the Commission should order Utility to show cause for its failure to comply with Commission ordered adjustments

**ISSUE 47** Should this docket be closed?

OPC: Yes, pending developments at the hearing.

**5. STIPULATED ISSUES:**

None at this time.

**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 17<sup>th</sup> day of April, 2018

Respectfully submitted,

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