

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: FEBRUARY 4, 1999

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF WATER AND WASTEWATER (REDEMANN, MESSER) *RRK BSM*
DIVISION OF LEGAL SERVICES (MCRAE, JAEGER) *SM*

RE: DOCKET NO. 981180-SU - APPLICATION FOR AMENDMENT OF
CERTIFICATE NO. 168-S TO INCLUDE ADDITIONAL TERRITORY IN
MONROE COUNTY BY K W RESORT UTILITIES CORP.
COUNTY: MONROE

AGENDA: FEBRUARY 16, 1999 - REGULAR AGENDA - INTERESTED PERSONS
MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\WAW\WP\981180.RCM

CASE BACKGROUND

K W Resort Utilities Corp. (K W Resort or utility) provides wastewater service to approximately 800 residential and commercial wastewater customers. Water service is provided by the Florida Keys Aqueduct Authority. The utility's 1997 annual report shows an annual operating revenue of \$334,092 and a net operating loss of \$193,991. The utility is a Class B utility company under FPSC jurisdiction.

Pursuant to Section 367.045, Florida Statutes, on September 18, 1998, K W Resort filed an application for amendment of Certificate No. 168-S to add additional territory in Monroe County. The utility proposes to provide service to existing homes that utilize cesspools and septic tanks, and some new development on a portion of Stock Island in Monroe County.

DOCUMENT NUMBER-DATE

01431 FEB-48

FPSC-RECORDS/REPORTING

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Staff has authority to administratively approve applications for amendment when no objections have been filed and the application is without controversy. This case is being brought to the attention of the Commission to address comments made by the Department of Community Affairs (DCA).

DISCUSSION OF ISSUES

ISSUE 1: Should K W Resort Corp.'s application for amendment to Wastewater Certificate No. 168-S be approved?

RECOMMENDATION: Yes, K W Resort Corp.'s application should be approved for the territory described in Attachment A, and the composite territory in Attachment B. K W Resort should charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. (MESSER, REDEMANN)

STAFF ANALYSIS: As stated previously, on September 18, 1998, the utility filed an application for amendment of territory to Certificate No. 168-S in Monroe County, Florida, pursuant to Rule 25-30.036(3), Florida Administrative Code. The application is in compliance with the governing statute, Section 367.045, Florida Statutes, and other pertinent statutes and administrative rules concerning an application for amendment of certificate to add area. The application contains a check in the amount of \$500 which is the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Adequate service territory and system maps and a territory description have been provided as prescribed by Rule 25-30.036(3) (e), (f) and (i), Florida Administrative Code. A description of the territory is appended to this recommendation as Attachment A. Attachment B is the composite territory description that includes the new area as well as the territory granted in Order No. 6803, Docket No. 750149-S (original certificate) and Order No. 12618, Docket No. 830390-S (amendment). The utility has submitted an affidavit consistent with Section 367.045(2)(d), Florida Statutes, that it has tariffs and annual reports on file with the Commission. In addition, the application contains proof of compliance with the noticing provisions set forth in Rule 25-30.030, Florida

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Administrative Code. No objections to the application were received, and the time for filing such has expired. The local planning agency was provided notice of the application and did not file a protest to the amendment.

The utility already has the existing treatment and disposal capacity to enable it to provide service to the new area as well as the existing territory. In addition, any funds needed will be provided by a combination of debt, equity, and/or contributions-in-aid-of-construction. The utility has made the staff aware that there is some urgency in the approval of the amendment because there is ongoing roadwork that will substantially reduce the utility's cost of installing collection lines.

With regard to technical ability, K W Resort has contracted with Mr. Ed Castell, who is a Class B Wastewater Treatment Operator, Licence No. 8359. In addition, the utility has engaged R. Jeff Weiler, P.E., of the firm The Weiler Engineering Corporation, which has been the engineer of record for 5 years. The utility's wastewater facilities have capacities of .499 million gallons per day (mgd). The utility has two wastewater treatment plants. One with a capacity of .250 mgd and the other with a capacity of .249 mgd. The current average daily flows for 1998 at the wastewater treatment plant were slightly less than .200 mgd. The utility believes that with this application the existing service area and the proposed service area will more fully utilize the existing wastewater capacities. Effluent disposal is accomplished by a combination of spray irrigation of a golf course, and 6 injection wells. The wastewater plant is in compliance with all applicable standards set by the Florida Department of Environmental Protection (DEP). According to the DEP representative, the wastewater treatment plant produces good quality effluent.

The utility has filed revised tariff sheets incorporating the additional territory into its tariff and returned its certificate for entry reflecting the additional territory.

K W Resort's approved rates were effective on September 26, 1998 pursuant to WS-98-0198, a price index. The rates were set on July 23, 1995, by Order No. 14620, pursuant to a stipulation in a rate case in Docket No. 830388-SU and the service availability charges were effective pursuant to Order No. 14756, issued August 22, 1985, in Docket No. 850370-SU, a service availability case. The current charges are \$2,700 and a typical residential bill is about \$33.86, according to the 1997 Annual Report. K W Resort should charge the customers in the territory added herein the rates

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and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

There currently exists a Memorandum of Understanding (MOU) between the Commission and the DCA, which was entered on June 5, 1998. Pursuant to this MOU, the PSC provides the DCA with copies of applications for original certificates and amendments of territory. In return, the DCA provides information on the need for service and compliance with local comprehensive plans as it relates to each application.

The Commission received a letter from the DCA concerning this amendment application of K W Resort's on November 23, 1998, which states,

... Our primary concern is to ensure that the proposed expansion of the wastewater service meets the water quality standards as forth in the Monroe County Comprehensive Plan. The application indicates the intent to utilize the Key West Golf Club Golf Course (Golf Course) as a re-use site for effluent. As specified in the County Plan, advanced wastewater treatment is required, unless the secondary effluent is re-used rather than discharged through a bore hole or other means. Therefore, the proposed expansion will comply with the County Plan, provided the re-use is required at time of permitting. We recommend the PSC require re-use as a condition of approval ...

On December 9, 1998, the utility submitted a response to the DCA comments. With respect to Golf Course reuse, the utility responded,

... this Utility has been utilizing spray irrigation to the Key West Golf Club Course for many years as its primary method for effluent disposal. In fact, other successful re-use systems in the state that I am aware of utilize only approximately 60% of their effluent for re-use purposes. Because of the high demands of the Golf Course above the current flows of the Utility, K W Resort Utility Corporation is actually disposing of well over 90% of its effluent to the Golf Course. ... as reported to DEP and Monroe County officials, the Utility actually utilized their backup injection wells only twenty-one days out of the last year. Representatives of the Golf Course believe that it can handle almost one million gallons a day of spray effluent. The Utility's current

flows are such that it provides the Golf Course with slightly less than 200,000 of average daily flow of effluent.

Based on the above facts, it is clear that not only is the Utility utilizing reuse in conformance with the desires of DEP and the policy of the Commission, we are using it to an unprecedented level and intend to continue to do so.

With respect to advanced wastewater treatment (AWT) the utility responded as follows:

... The utility is also currently operating within all permit requirements and has a valid permit recently issued from the Florida Department of Environmental Protection. That permit rates the treatment and disposal facilities at 500,000 gallons per day. The utility's current average daily flow is only 196,000 gallons per day. As such, the Utility is at less than 50% of capacity under its existing permit ...

It is true that the Utility will eventually have to enlarge the size of its treatment facility. At that time, there may be needs for AWT, alternative methods of wet weather storage, or alternatives to disposal other than the existing injection wells. ... we will continue to work with both Monroe County and DEP to resolve as the need for additional capacity arises in the next few years.

Staff believes this information addresses the DCA comments. The utility is already using the golf course as a disposal site for effluent. Further, the utility is operating within the DEP standards for reuse, and there are no regulatory demands at this time to require the utility to upgrade its plant to AWT for the purpose of this amendment. At the time AWT becomes an issue, it will probably necessitate a rate case by the utility, since it will require additional capital costs and higher operational costs.

The DCA requests that the Commission require re-use as a condition of approval. However, the Commission is not the agency with primacy and does not have the authority to require re-use as a condition of operating the wastewater treatment plant. Also, as stated above, the utility is in compliance with all DEP standards, and appears to be using re-use to the maximum extent possible.

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The DCA's letter also requested more detailed information about the operation of the utility. Mr. F. Marshall Deterding, utility's counsel, provided a copy of a preliminary draft of an engineering analysis of K W Resort's wastewater treatment facility prepared by the utility's consulting engineer. On December 21, 1998, a letter was sent to the DCA making this document available for review.

The application meets all other standards as set forth in the statutes and the rules. Therefore, staff recommends that the amendment application of K W Resort be granted for the territory described in Attachment A and the composite territory in Attachment B.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed. (MCRAE,
JAEGER)

STAFF ANALYSIS: No further action will be required and the docket
should be closed.

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ATTACHMENT A

K W RESORT UTILITIES CORP.

MONROE COUNTY

WASTEWATER SERVICE AREA

NEW AMENDMENT AREA

Township 67 South, Range 25 East
Section 35

All that portion of Stock Island South of U.S. Highway No. 1 (State Road No. 5) as now constructed.

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ATTACHMENT B

K W RESORT UTILITIES CORP.

MONROE COUNTY

WASTEWATER SERVICE AREA

COMPOSITE SERVICE AREA

Township 67 South, Range 25 East
Section 35

All that portion of Stock Island South of U.S. Highway No. 1 (State Road No. 5) as now constructed.

Township 67 South, Range 25 East
Sections 26 and 35

All of that area of said sections bounded on the North, East and West by the centerline of Jr. College Road as now constructed and on the South by the centerline of U.S. Highway No. 1 (State Road No. 5) as now constructed.