

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. 150071-SU  
ORDER NO. PSC-16-0509-PHO-SU  
ISSUED: November 3, 2016

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code (F.A.C.), a Prehearing Conference was held on October 28, 2016, in Tallahassee, Florida, before Commissioner Jimmy Patronis, as Prehearing Officer.

APPEARANCES:

MARTIN S. FRIEDMAN, ESQUIRE, Friedman & Friedman, P.A., 766 North Sun Drive, Suite 4030, Lake Mary, FL 32746; and  
BARTON W. SMITH, ESQUIRE, Smith Oropeza Hawks, P.L., 138-142 Simonton Street, Key West, FL 33040  
On behalf of KW Resort Utilities Corporation (KWRU)

J.R. KELLY, Public Counsel; ERIK L. SAYLER, Associate Public Counsel; and  
STEPHANIE MORSE, Associate Public Counsel; 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 (OPC)

ROBERT SCHEFFEL WRIGHT, JOHN T. LaVIA III, ESQUIRES, Gardner, Bist, Bowden, Bush, Dee LaVia & Wright, P.A., 1300 Thomaswood Drive, Tallahassee, Florida 32308; and  
CYNTHIA L. HALL, Assistant County Attorney, Monroe County Attorney's Office, 1111 – 12<sup>th</sup> Street, Suite 408, Key West, FL 33040  
On behalf of Monroe County, Florida (Monroe County)

ANN M. AKTABOWSKI, QUALIFIED REPRESENTATIVE; Harbor Shores, 6800 Maloney Ave, Unit 100, Key West, FL 33040  
On behalf of the Members of Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores)

KYESHA MAPP, ESQUIRE, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
On behalf of the Florida Public Service Commission (Staff)

Mary Anne Helton, Deputy General Counsel, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850  
Advisor to the Florida Public Service Commission

## PREHEARING ORDER

### I. CASE BACKGROUND

K W Resort Utilities Corp. (KWRU or Utility) is a Class A Utility providing wastewater service to approximately 2,061 customers in Monroe County. Water service is provided by the Florida Keys Aqueduct Authority (FKAA). Rates were last established for this Utility in its 2007 rate case. According to the Utility's 2014 Annual Report, the Utility had operating revenues of \$1,479,307 and operating expenses of \$1,199,672. On July 1, 2015, KWRU filed its application for the rate increase at issue. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure.

By Order No. PSC-16-0123-PAA-SU, issued March 23, 2016, the Commission issued an order approving an increase in rates and charges. On April 13, 2016, timely protests to the PAA Order were filed by the Office of Public Counsel (OPC) and Monroe County (County). On April 21 and 18, cross-protests were filed by KWRU and the Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores),<sup>1</sup> respectively. This matter has accordingly been scheduled for an administrative hearing on November 7-9, 2016.

### II. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code (F.A.C.), this Prehearing Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

### III. JURISDICTION

This Commission is vested with jurisdiction over the subject matter by the provisions of Chapter 367, Florida Statutes (F.S.). This hearing will be governed by said Chapter and Chapters 25-9, 25-30, 25-22, and 28-106, F.A.C., as well as any other applicable provisions of law.

### IV. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

Information for which proprietary confidential business information status is requested pursuant to Section 367.156, F.S., and Rule 25-22.006, F.A.C., shall be treated by the Commission as confidential. The information shall be exempt from Section 119.07(1), F.S., pending a formal ruling on such request by the Commission or pending return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been made a part of the evidentiary record in this proceeding, it shall

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<sup>1</sup> The Harbor Shores Association's representative was granted qualified representative status pursuant to Order No. PSC-16-0168-FOF-OT, issued April 26, 2016, in Docket No. 160008-OT, In re: Applications for qualified representative status.

be returned to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of this proceeding, it shall be returned to the person providing the information within the time period set forth in Section 367.156, F.S. The Commission may determine that continued possession of the information is necessary for the Commission to conduct its business.

It is the policy of this Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 367.156, F.S., to protect proprietary confidential business information from disclosure outside the proceeding. Therefore, any party wishing to use any proprietary confidential business information, as that term is defined in Section 367.156, F.S., at the hearing shall adhere to the following:

- (1) When confidential information is used in the hearing that has not been filed as prefiled testimony or prefiled exhibits, parties must have copies for the Commissioners, necessary staff, and the court reporter, in red envelopes clearly marked with the nature of the contents and with the confidential information highlighted. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- (2) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise confidentiality. Therefore, confidential information should be presented by written exhibit when reasonably possible.

At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the court reporter shall be retained in the Office of Commission Clerk's confidential files. If such material is admitted into the evidentiary record at hearing and is not otherwise subject to a request for confidential classification filed with the Commission, the source of the information must file a request for confidential classification of the information within 21 days of the conclusion of the hearing, as set forth in Rule 25-22.006(8)(b), F.A.C., if continued confidentiality of the information is to be maintained.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties and staff has been prefiled and will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to timely and appropriate objections. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer. After all parties and Staff have had the opportunity to cross-examine the witness, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

The parties shall avoid duplicative or repetitious cross-examination. Further, friendly cross-examination will not be allowed. Cross-examination shall be limited to witnesses whose testimony is adverse to the party desiring to cross-examine. Any party conducting what appears to be a friendly cross-examination of a witness should be prepared to indicate why that witness's direct testimony is adverse to its interests.

#### VI. ORDER OF WITNESSES

Each witness whose name is preceded by a plus sign (+) will present direct and rebuttal testimony together.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Edward R. Castle	KWRU	6, 10, 11
Christopher A. Johnson	KWRU	1-3, 6, 8, 10-12, 19, 23, 24, 25, 34
Frank Seidman	KWRU	1, 11
Deborah D. Swain	KWRU	1, 2, 4-39, 43
Andrew T. Woodcock	OPC	6, 8, 11
Patricia W. Merchant, CPA	OPC	2, 3, 5-17, 19-40, 42
Kevin G. Wilson, P.E.	COUNTY	4, 8, 19, 21, 32
Mayté Santamaria	COUNTY	8, 19, 21, 32
J. Terry Deason	COUNTY	2, 3, 8, 19, 21, 32, 38
Iliana Piedra	Staff	5, 10, 12, 22, 25, 27, 28

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Rebuttal</u>		
Edward R. Castle	KWRU	6, 10, 11
Christopher A. Johnson	KWRU	1-3, 6, 8, 10-12, 19, 23, 24, 25, 34
Frank Seidman	KWRU	11
Deborah D. Swain	KWRU	1, 2, 4-39

## VII. BASIC POSITIONS

**KWRU:** KWRU is entitled to annual revenues in accordance with PAA Order as modified by its issues set forth in its Cross-Petition in the amount of \$3,440,501 plus amortization of rate case expense.

**OPC:** K W Resorts Utilities Corp. (KWRU or Utility) has the burden of proof to demonstrate it is entitled to its requested rate increase. *See Florida Power Corp v. Cresse*, 413 So. 2d 1187, 1191 (Fla. 1982). In this case, KWRU has not met its burden for all of its requested rate increase. Many of its “wants” are simply not supported by the evidence to be presented in this proceeding. The evidence offered by OPC and Monroe County demonstrates that KWRU is entitled to no more than \$1,821,639 for Phase I, based on a 2014 historic test year, and no more than \$2,269,892 for Phase II, based on a 2016 pro forma test year.

### Two-phased revenue requirement calculation

In order to properly adjudicate this case, the Commission should revisit and update the Phase I and Phase II revenue requirements established by Order No. PSC-16-0123-PAA-SU, issued March 23, 2016 (PAA Order). Separating this case into two Phases was, and still is, the most practical and efficient step to take given the posture of KWRU’s case and the limited amount of information presented to the Commission by the Utility during the proposed agency action (PAA) portion of this docket. During the PAA portion, the Commission was not presented with the complete and necessary facts and evidence to establish a pro forma test year for the Phase II revenue requirement, with rate base, capital funding, accurate billing determinants (i.e., customers, bills and gallons, etc.), and appropriate service rates. As a result of the protest by OPC and Monroe County, the Commission will now be provided with the necessary record evidence to establish a 2014 historic test year for Phase I and a 2016 pro forma test year for Phase II for the purposes of fixing rates which are just, reasonable, compensatory, and not unfairly discriminatory.

Phase I revenues and rates

KWRU takes the unsupported position that this Commission does not need to revisit or update the Phase I revenues and rates established by PAA Order; thus, asking the Commission to skip a critical part of its analysis. When establishing PAA Order Phase I revenues and rates, KWRU presented overstated pro forma operations and maintenance (O&M) expenses to the Commission, and the Commission made a reasonable decision based on that limited information. Now, the Commission has the complete and more appropriate facts and evidence and actual 2016 costs upon which to base Phase I revenues and rates, and the Commission should determine what Phase I revenues should have been in order to calculate whether a refund is due to KWRU's customers.

Because KWRU knows the PAA Order Phase I rates were based upon factually inadequate and overstated O&M expenses, the Utility is now attempting to confuse the issues and conceal the fact it owes customer refunds for the Phase I rate increase approved by the PAA Order. KWRU only wants the Commission to establish final rates using an outdated and stale 2014 test year in order to avoid any critical examination of the PAA Order Phase I revenues and rates, and paying the refunds it may owe.

Therefore, in order to balance the needs of the customers and utility alike when deciding this matter, this Commission should, at a minimum determine what the Phase I revenue requirement would have been if the Commission had had before it the full record and factual evidence. OPC submits the evidence will demonstrate the KWRU customers are entitled to a refund of Phase I revenues approved in the PAA Order.

Phase II revenues and rates

In addition, KWRU is asking this Commission to establish prospective Phase II revenues and rates (or final rates) to go into effect in 2017 based on a stale and outdated 2014 test year that contains pro forma expenses projected for future years without considering the corresponding revenues and billing determinants for those same future years. There is no dispute that Phase II revenues and rates are being driven by future customer growth which will come online once its proposed 350,000 gallon per day plant expansion is completed. Thus, establishing 2017 prospective rates based on 2014 billing determinants would result in unreasonable and unjust rates given the facts and evidence demonstrating that KWRU will experience significant future growth once the new plant is placed in service. Accordingly, the Commission should update the test year using the facts and evidence provided by the witnesses for OPC and Monroe County.

Updating the test year

This Commission has established pro forma test years for utilities in the past, and should do so again in this case. Further, using stale billing determinates is unreasonable and violates the matching principle. The matching principle, as

testified to by County witness Deason, should be applied in this case, and Phase II revenues and rates should be based upon an updated, 2016 pro forma test year as supplied by OPC witness Merchant. To do otherwise would result in residential and general service rates that are unreasonably high, and allow KWRU to reap a windfall of revenues at the expense of its customers.

Therefore, in order to appropriately balance the interests of the customers and the Utility, OPC and Monroe County assert this Commission should retain the Phase I and II analysis for the purposes of (1) establishing refunds for customers for the Phase I rates approved in the PAA Order and (2) determining prospective revenues and rates for Phase II using a 2016 pro forma test year.

OPC witness Woodcock

With respect to KWRU proposing to replace its vacuum tank, OPC witness Woodcock correctly assessed that KWRU's estimated cost for replacing this tank was significantly overstated in KWRU's direct testimony. However, OPC remains concerned that the total estimated cost of the 350,000 gpd wastewater treatment plant expansion project has continued to balloon to over \$5.1 million. Even with adding the cost of the vacuum tank to the overall cost of the project, there are still additional costs which are unexplained and unsupported. OPC submits the Commission should carefully examine these costs once the plant comes online and consider a true-up mechanism to reflect the true and accurate costs that should be borne by customers. In addition, witness Woodcock provides evidence that the 350,000 gpd expansion should be considered 75% used and useful.

OPC witness Merchant

OPC witness Merchant testifies as to all the adjustments that are necessary for establishing Phase I and Phase II revenue requirements and rates, including correcting the 2014 test year and providing evidentiary support for a 2016 pro forma test year. She also recommends a reasonable Phase I revenue requirement and a reasonable Phase II revenue requirement and service rates based upon the updated test year.

In conclusion, the Commission should reject KWRU's request to set final rates based on a stale, outdated, and unreasonable 2014 test year, and should instead establish Phase II final rates, using the matching principle, and a 2016 pro forma test year.

**COUNTY:** K W Resort Utilities Corp. ("KWRU" or the "Utility") is required by the provisions of Chapter 367, Florida Statutes, and Chapter 25-30, Florida Administrative Code ("F.A.C.") to provide safe, efficient, and sufficient service to all customers within its certificated service area on Stock Island, Florida, at fair, just, and reasonable rates, charges, and conditions of service. In this proceeding, the Commission will determine what rates and charges are to be imposed, charged, and collected by KWRU for the wastewater treatment service and reuse water service that it provides to its customers on Stock Island. Monroe County

believes and asserts that the statutory requirement to provide “efficient” service must mean that KWRU must fulfill its statutory obligation to serve at the lowest possible total cost.

Monroe County further believes and asserts that the rates paid by KWRU’s customers, and indeed by any utility’s customers, must be matched to the costs incurred to serve them, including matching the rates paid to the costs incurred in the same time periods in which such costs are incurred. This is the Commission’s fundamental policy of ratemaking – that cost-causers should pay the costs incurred to serve them – and it should be followed in this case. Following this sound, established policy will ensure that KWRU’s customers receiving service in 2016 will pay the costs to serve them in 2016, and that customers receiving service in 2017 and 2018 will pay the costs incurred to serve them in 2017 and 2018.

Although not entirely unique in this regard, this case presents significant issues of achieving the proper matching of costs and rates because the Utility’s filing is based on a 2014 historic test year with certain, limited “pro forma” adjustments to rate-determinative factors and variables chosen by KWRU. The rates to be paid by KWRU’s customers, however, did not even begin to apply to their service until the imposition of the rates approved by the Commission’s PAA Order No. 16-0123-PAA-SU (the “PAA Rates”) beginning on or about April 15, 2016, some 16 months after the end of the Utility’s proposed test year. The need to match costs and billing determinants is further magnified by the fact that the major drivers of KWRU’s requested rate increase – a new wastewater treatment plant (“WWTP”) and a new air vacuum tank, along with the O&M costs associated with the new WWTP – are not expected to be serving customers until March or April of 2017, more than two full years after the end of the Utility’s proposed test year. Under these circumstances, in order to achieve fair, just, and reasonable rates and charges, the Commission must ensure that the amounts of both KWRU’s rate base and its O&M expenses are properly calculated and assigned to the time periods in which those costs are incurred to provide public service. This can be accomplished either by using a different test year or years or by making corresponding “pro forma” adjustments in the relevant variables – including billing determinants and Contributions in Aid of Construction – to achieve proper matching of rates paid and costs incurred. The substantive point is the same: customers should pay rates based on the cost to serve them and based on the amounts of service purchased in the time period in which those rates are to be in effect. The Utility wishes to have its revenue requirements based on future costs while ignoring additional sales and additional CIAC collected in the same future periods; this would result in rates that are unfair, unjust, and unreasonable, and the Commission should reject the Utility’s attempts and set appropriate rates that match the rates paid to the costs incurred.



In this case, KWRU has overstated both its rate base and its operating and maintenance (“O&M”) expenses, and the Commission should accordingly adjust these cost amounts to appropriate levels, as supported by the testimony of the witnesses for the Citizens of the State of Florida (“Citizens”) represented by the Office of the Public Counsel (“OPC”). The Commission should adjust the plant accounts as recommended by OPC’s witness Patricia Merchant, and as to those items stipulated by the Parties. Notably among this latter category, the Parties have agreed to stipulate that the cost of the new air vacuum tank is \$407,771, roughly 33 percent less than the previous estimate of \$610,000 proffered by the Utility. KWRU has also overstated its rate base by understating the CIAC that it has collected, and that it is reasonably likely to collect, for the time periods in 2016, 2017, and 2018 that the PAA Rates and the new permanent rates – referred to herein as Phase II Rates – will be in effect.

Specifically, Ms. Merchant’s testimony identifies numerous adjustments to rate base including adjustments to: Plant in Service, Land, Accumulated Depreciation, Non-used and Useful Plant Adjustments, Contributions in Aid of Construction (CIAC) and Accumulated Amortization of CIAC, Construction Work in Progress (CWIP), Working Capital, Accounts Receivable, Other Deferred Debits, Survey Fees, and Rate Base. Ms. Merchant’s testimony also identifies adjustments to net operating income accounts, including both revenues and expenses, as follows: Operating Revenues, Revenue Growth Projections, Miscellaneous Revenues, Reuse Revenues, O&M Expenses, Contractual Services for Engineering and Management Fees, Rate Case Expense, Depreciation Expense, and Taxes Other than Income Taxes.

In addition to the foregoing corrections to the Utility’s plant, CIAC, revenues, and O&M expenses, which are necessary to *get the revenue requirements right* for the time periods in which customers will be receiving service, the Utility’s proposed rates are unfair, unjust, and unreasonable because they include estimated costs that KWRU alleges will be incurred in future periods while the rates designed to recover those costs would, as requested by KWRU, be calculated using outdated billing determinants or sales units, from KWRU’s 2014 historical test year. Using costs for future years, including 2016, 2017, and 2018 to establish revenue requirements without correspondingly updating the billing determinants (number of bills rendered and number of gallons of wastewater treated and billed for) will result in a mismatch of cost incurrence and cost recovery. Specifically, under the Utility’s proposals, recovering the greater costs that the Utility will incur in 2016, 2017, and 2018 over the smaller billing units experienced by the Utility in 2014, will result in such rates being greater than they should be. Rates collected should reflect costs incurred, and using mismatched costs and billing determinants will violate fundamental ratemaking principle, thereby resulting in rates that are not fair, just, and reasonable. In other words, it is critical that the Commission not only get the revenue requirements right, but that it also *get the rates right* by matching costs incurred with the billing determinants that accurately reflect the

amounts of wastewater service actually received and paid for by KWRU's customers.

KWRU began collecting the rates approved for Phase I by Order No. 16-0123 (the "PAA Rates") on or about April 15, 2016. (The Utility mailed its Customer Notice of the new rates on April 15, 2016, Commission Document No. 02205-16, Notice of Filing Customer Notice, and apparently began collecting the new PAA Rates in April 2016, Commission Document No. 03880-16, Interim Revenue Report for May, 2016, Prorated.) The new wastewater treatment plant ("WWTP") is not expected to be completed until the first quarter of 2017. Most if not all of the O&M expenses associated with the new WWTP will therefore not be incurred until the new WWTP plant comes into commercial service. However, the PAA Rates include projected O&M costs associated with the new WWTP.

For purposes of using correct billing determinants and also using the appropriate amounts of CIAC that correspond to the time periods in which customers will be paying the rates set in this case, Monroe County relies on the testimony and exhibits of OPC's Witness Patricia Merchant, including specifically, her Exhibits PWM-2 and PWM-3. Further with respect to Monroe County's positions regarding the appropriate billing determinants, Monroe County relies on the prefiled direct testimonies of Kevin G. Wilson, P.E., and Mayté Santamaria, which address likely additional customer connections in KWRU's service area. Further, Monroe County is aware of reports received by Mr. Wilson that KWRU is in negotiations or discussions with the Florida Keys Aqueduct Authority ("FKAA") for connecting all of FKAA's customers – estimated to be between 400 and 440 Equivalent Residential Connections ("ERCs") - on what is known as Key Haven, another island immediately adjacent to Stock Island, to KWRU's system. If KWRU were to take over providing wastewater treatment service to the customers currently served by FKAA on Key Haven, this would in turn, at a minimum, further increase KWRU's sales, which would result in lower rates as KWRU's fixed costs would be spread over a greater number of billing determinants. Additionally, it seems reasonable, and probably required, that KWRU would collect Plant Capacity Charges for serving the new customers, and if that happened, the additional CIAC would reduce KWRU's rate base and thus its retail service rates.

With regard to the fundamental ratemaking policy that costs incurred and units of sales should be matched to achieve fair, just, and reasonable rates, Monroe County also relies on the prefiled direct testimony of J. Terry Deason, filed in this docket on September 14, 2016.

Finally, the need for close Commission scrutiny of all of KWRU's claims and assertions is critical, in light of the Utility's track record of representing costs to the Florida PSC that it cannot justify and has not justified, and further considering KWRU's failure to fulfill its contractual promise to Monroe County that KWRU

would achieve full implementation of Advanced Wastewater Treatment by January 1, 2007, which also implicates KWRU's quality of service. With regard to KWRU's claims to the PSC of costs that it cannot and has not justified, refer to Commission Order No. 09-0057-FOF-SU, the Commission's Final Order in Docket No. 070293-SU, In re: Application for Increase in Wastewater Rates in Monroe County by K W Resort Utilities Corp., hereinafter Order No. 09-0057, by which the Commission disallowed substantial amounts of costs claimed by KWRU because KWRU could not document them, because they were facially duplicative, because they involved payments to affiliates and family members, or because of combinations of these factors.

**HARBOR  
SHORES:**

1. On March 23, 2016 the Commission published PSC-16-0123-PAA-SU with approved rate increases for KWRU. The result of this increase has created an undue financial hardship for members of the Harbor Shores Condominium Unit Owners Association (Harbor Shores). In 2015 Harbor Shores Association paid KWRU \$23,243.00 for wastewater services, if the Phase 1 approved rates were in effect for all of 2016, Harbor Shores charges would be approximately \$38,875, an increase of approximately 64% year over year. If or when Phase 11 rates go into effect, Harbor Shores's charges will be approximately \$42,312, an increase of approximately 82% over the 2015 charges. This is an extraordinary increase for a monopoly utility and particularly in view of the fact that many of our members and/or renters are either elderly or working class people who can ill afford these extraordinary increases.

2. During the course of our involvement in the Rate Case it came to our attention that there were different categories of customers and various fees and charges based on these categories. Harbor Shores Association members are designated Residential Customers and it is our position that we meet the criteria (although we cannot find a publication that defines each category?) of General Service Customer due to the fact that the Association has been paying the monthly charges for all 69 units since the last rate case in 2009 per our Utility Agreement with KWRU. Had we been designated General Service in 2015, we would have paid \$15,303 compared to \$23,243 for wastewater services and if the approved Phase 1 proposed rates were in effect for all of 2016, the General Service charges would be approximately \$22,218. When and if Phase 11 rates go into effect and Harbor Shores is designated as General Service, the charges will be approximately \$24,462.

3. The Utility Agreement between Harbor Shores and KWRU seems to be different in three important areas that any other agreement sent me by KWRU during the Discovery phase of this case:

(A) It appears that almost all, if not all, other Agreements, (see Exhibits 4, 5 & 6) either Residential or General Service, under Rates, Fees and Charges, state, in

part, that “All Customers will pay the applicable fees, rates and charges as set forth in the Tariff” but the Harbor Shores Agreement (see Exhibit 3) states, in part, under the same heading of Rates, Fees and Charges “ The Association will pay the applicable fees, rates and charges as set forth in the Tariff”.

(B) Again, in almost all, if not all, of the other Agreements under that same Rates, fees and Charges the Agreements state, in part, “ Developer shall pay to the Service Company a reservation (Capacity Reservation Fee), in the amount of \$2700.00 per E.R.C.” but the Harbor Shores Agreement states, in part, “The Association shall not be responsible to the Service Company for the reservation fee. Only the individual unit owners shall pay to the Service Company such reservation fee”.

(C) Again, in almost all, if not all, of the other Agreements under Property Rights, state, in part, “ In those cases in which Service Company accepts all or any portion of the system for service, operation and maintenance, Developer shall convey the following property rights and interests for that portion of the system to Service Company”. Each Agreement goes on to include two or three paragraphs regarding non-exclusive easements to allow the Service Company access to non-public areas for maintenance and repair. In the Harbor Shores Agreement it states that this particular Property Rights section “Is intentionally omitted”.

Because of these differences and because we are responsible for and have been paying the monthly bills for all sixty-nine Units for almost ten years and because there are no individual shut-off valves to allow for shut-off of service should the Unit owner not pay, and, as stated above, KWRU has no access to the non-public areas within Harbor Shores Park, it is our contention that we fit the General Service designation and should have been classified in this category from the last rate case in 2009. It is also our contention that we have been overcharged by approximately \$10,000.00 per year for the last seven or more years.

**STAFF:** Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

## VIII. ISSUES AND POSITIONS

### Legal Issue

**ISSUE 1:** **Dropped** - Does the Commission have the authority to update the test year requested by KWRU and approved by the Commission Chairman to set rates representative of the period in which new growth-related plant will be placed into service and in which expenses associated with such new plant will be incurred?

**POSITIONS**

**KWRU:** Yes, but only if agreed to by the utility.

**OPC:** To be argued under Issues 2 and 3.

**COUNTY:** Yes.

**HARBOR**

**SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

Test Year

**ISSUE 2: Is a two-phased revenue requirement calculation appropriate in this docket?**

**POSITIONS**

**KWRU:** The wastewater treatment plant expansion will be completed by the time the rates approved in this docket will be effective and thus there should be a single revenue requirement implemented without phasing. (Swain, Johnson)

**OPC:** Yes, the Commission in its PAA Order appropriately implemented a two-phased rate increase. The Commission should establish a Phase I rate increase to recognize the revenue requirement for the time frame between the PAA Phase I rates were implemented until the plant expansion is placed into service. A Phase II revenue requirement should be determined to set rates on a prospective basis after the new plant expansion is in-service. This two-phased approach will recognize a proper matching of revenues and expenses for the time that the two time periods that rates will be in place. If only one revenue requirement were to be implemented, the inclusion of plant and higher projected expenses would not match the historical timeframe when the plant becomes operational and serving customers. To include the requested growth-related rate base and O&M expense increases, without the related corresponding offsets for additional CIAC collected in 2015 and 2016 (and pro forma CIAC through December 31, 2016) and additional sales that will occur after the new plant is operational, will immediately overstate the revenues and earnings received by the Utility when the new rates are implemented, violate the test year matching principle supported by witness Deason's testimony, and result in unreasonable and unjust rates pursuant to Section 367.081, Florida Statutes. (Merchant)

**COUNTY:** Yes. It is critical to setting fair, just, and reasonable rates that revenue requirements be set to recover only the costs incurred to provide service when that service is provided. At present, through the PAA Rates, KWRU is recovering costs based on future periods in which it will be operating its new WWTP, but

that Plant will not be in service until March or April of 2017. Moreover, the new permanent rates or Phase II Rates to be effective after the new WWTP becomes commercially operational will have different revenue requirements and will serve additional customers over and above those served in the 2014 historic test year, as well as over and above those presently (as of October 2016) being served. KWRU's rate base must be revised to reflect additional CIAC collected since the end of 2014 and that is reasonably projected to be collected for the first 12 months after the new WWTP comes on-line, such that the plant account and the CIAC account are properly matched. Additionally, any O&M costs associated with the new WWTP must be removed from the Phase I revenue requirement, and the O&M costs associated with the new WWTP should only be allowed in retail rates as of the date of which the new WWTP begins providing service to KWRU's customers.

**HARBOR  
SHORES:**

Agree with OPC.

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

**ISSUE 3:**

**What is the appropriate test year for establishing rates for KWRU?**

- A. For Phase I, if applicable**
- B. For Phase II, if applicable**

**POSITIONS**

**KWRU:**

The appropriate test year is December 31, 2014 adjusted for known and measurable changes. (Swain, Johnson)

**OPC:**

A. The appropriate test year for Phase I rates is the historical year ending December 31, 2014, with appropriate adjustments to recognize the level of expenses needed to implement AWT. (Merchant)

B. The historical year ending December 31, 2014 is not the appropriate test year for setting Phase II or final rates in this proceeding. It violates the matching principle. Consistent with Section 367.081, Florida Statutes, the appropriate test year should provide a reasonable match between the utility investment in used and useful plant in service, capital costs, operating revenues, operating expenses, and customer billing determinants so that the rates established are fair, just, compensatory and not unduly discriminatory when the new rates are placed into service. The Utility maintains that an historical test year with pro forma adjustments for projected growth related plant and expenses is representative; however, it has failed to include any offsetting entries that would correspond and match its projected increases. A projected 2017 test year, a year out from the date the plant goes into service, would be the most representative for the first year, yet the Utility chose to not provide the Commission or intervenors the level of detail required. An alternative pro forma test year ended December 31,

2016, with proper adjustments should be utilized, which will be much more representative than using an historic 2014 test year with “cherry picking” adjustments that only increase the expense items and rates. The Commission has in several cases, very similar to the KWRU case, required an historical test year to be updated and projected forward when the utility was growing at an exceptionally high rate per year. *See e.g.*, Order No. 15725, issued February 21, 1986 (Martin Downs), and Order No. PSC-01-2511-PAA-WS, issued December 24, 2001 (Burkim Enterprises). (Merchant)

**COUNTY:** A. The most appropriate test year for establishing the Phase I revenue requirements is the 12-month period beginning on the date on which the PAA Rates became effective, which is on or about April 15, 2016. It is not necessary to set rates for the Phase I period, as long as the refund is properly calculated and made based on the excess of revenues collected over what the Commission determines is the correct revenue requirement should have been for that period.

B. The appropriate test year for establishing Phase II Rates for KWRU is the 12-month period beginning on the date that the Utility’s new WWTP achieves commercial operation and begins providing service to KWRU’s customers.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

Quality of Service

**ISSUE 4:** Is the quality of service provided by KWRU satisfactory?

**POSITIONS**

**KWRU:**

Yes. (Johnson)

**OPC:**

Customers testified at the December customer meeting about issues with the Utility’s quality of service. Customers will testify about the quality of service at the hearing in November. Their testimony, in part, will demonstrate whether the quality of service is satisfactory. The determination of quality of service will be made after all the evidence has been adduced at hearing.

**COUNTY:**

No. KWRU, having taken more than \$700,000 from Monroe County in the 2002-2004 time frame to finance plant upgrades and expenses to achieve Advanced Wastewater Treatment (“AWT”) standards, and then having obtained its 2009 rate increases in Docket No. 070293-SU based on its representations to the Commission that it needed the additional revenues to achieve AWT standards, ceased trying to meet AWT standards sometime in 2009 or 2010. KWRU took

this action apparently to save money. KWRU's actions thus resulted in lower quality water being released into the environment of the Florida Keys, as well as lower-quality reuse water being sold to Monroe County than would have been available if KWRU had fulfilled its obligations to meet AWT standards. KWRU did not meet AWT standards until sometime in November or December 2015. Together, these facts establish that KWRU was not providing satisfactory service – both as to treating wastewater before discharging it and as to the quality of its reuse water, which Monroe County purchases from KWRU – during the test year, and that KWRU generally failed to provide satisfactory service for more than 6 years after it committed to do so. In short, KWRU was not providing the service that it was being paid to provide by Monroe County and by its other customers. Moreover, this factual issue is subject to consideration of additional evidence that will likely be presented by customers at the customer service hearing that will be held in the evening of November 7, 2016. Accordingly, Monroe County reserves its rights to adduce additional evidence on this issue based on the customers' testimony.

**HARBOR  
SHORES:**

Agree with OPC.

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

Rate Base

**ISSUE 5: What adjustments, if any, should be made to account for the audit adjustments to rate base in each of Staff's Audit Findings 1 through 7?**

**POSITIONS**

**KWRU:**

Stipulation as to all but Audit Finding 6. Agree with Audit Finding 6 adjustments as contained in PAA Order (Swain)

**OPC:**

The following adjustments should be made based on adjusted audit findings:

- Plant in service should be reduced by \$817,240 based on the Audit Finding 1.
- Construction work in progress should be increased by \$303,135 for the December 31, 2014 Phase I test year based on the Audit Finding 2.
- Land should be decreased by \$923 and O&M expenses (contractual services-other) should be increased by \$1,200 for survey fees based on the Audit Finding 3, and miscellaneous deferred debits should be increased by \$4,200 for the unamortized balance.
- CIAC should be decreased by \$297,120, Accumulated amortization of CIAC should be decreased by \$87,153, and Amortization of CIAC should be decreased by \$14,003 based on Audit Finding 4.
- Accumulated depreciation should be and depreciation expense should be decreased by \$5,489, based on Audit Finding 5.



- The only adjustment to miscellaneous debits related to Audit Finding 6 that should be made is the \$4,200 increase related to unamortized survey fees. No allowance should be made for deferred accounting fees as these costs should be disallowed. Also, any component of the deferred litigation fees should be added to CWIP in Phase I rates and should be capitalized to plant in service for Phase II.
- Audit Finding 7 adjustments should be addressed in Issue 12 regarding working capital. (Merchant)

**COUNTY:** Agree with OPC and with the adjustments addressed in the stipulations on rate base items agreed to by the Parties.

**HARBOR  
SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 6: What is the appropriate amount of plant in service to be used in setting rates?**

**A. For Phase I, if applicable**  
**B. For Phase II, if applicable**

**POSITIONS**

**KWRU:** \$16,592,505 (Swain, Castle, Johnson)

**OPC:** A. The amount of plant in service for the Phase I rates should be \$11,108,464, which is the amount of plant in service that was approved in the PAA Order in this docket. This reflects the adjustments made by the Commission to reflect the agreed-upon audit reductions of \$817,240 from Audit Finding 1, and to remove the Utility's requested pro forma plant of \$3,574,468, for a total decrease to plant of \$4,391,708. It is inappropriate to include any pro forma plant for growth-related plant in Phase I rates that will provide service to future customers more than two years beyond the historical test year. It is also inappropriate to include any pro forma plant for the vacuum tank replacement in Phase I rates as it will not be placed into service until after 24 months from the end of 2014, the historical test year. (Merchant)

B. The appropriate amount of plant in service for Phase II rates should be \$15,182,830. First, adjustments are appropriate to reflect the agreed-upon audit reductions of \$817,240 from Audit Finding 1. Second, the average balance of adjusted 2014 plant included in rate base should be increased by \$88,027 to reflect the year-end balance approved by the Commission in its PAA order. Third, the cost of the wastewater treatment plant expansion should be increased by \$1,202,968 to reflect the plant expansion contracted cost of \$4.3 million and the \$477,436 adjustment to capitalize the legal fees incurred to litigate the Utility's construction permit for the wastewater treatment plant (WWTP) expansion. Fourth, the new

vacuum tank plant addition of \$474,552 less the retirement entry of \$355,914 should be included in Phase II rates. Finally, land should be decreased by \$6,000 as addressed in Audit Finding 3. (Merchant, Woodcock)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 7:** **What is the appropriate amount of accumulated depreciation to be used in setting rates?**

- A. For Phase I, if applicable
- B. For Phase II, if applicable

**POSITIONS**

**KWRU:** \$5,738,008 (Swain)

**OPC:** A. Accumulated Depreciation for Phase I should be \$5,830,802, which reflects a decrease of \$198,625 for Phase I rates. Accumulated depreciation should be increased to reflect the net adjustment of the PAA agreed-upon audit adjustments of \$2,040 recommended by Audit Finding 2. Second, it is appropriate to remove the Utility's pro forma plant to accumulated depreciation of \$196,281 related to the wastewater treatment plant expansion pro forma adjustment. No inclusion of any pro forma plant for the plant expansion or the vacuum tank replacement should be allowed in Phase I rates. Lastly, the Utility's adjustment to annualize the 2014 depreciation expense of \$4,384 should be disallowed. Allowing the Utility to make a one-sided adjustment to accumulated depreciation and depreciation expense ignores the impact of the annualization of amortization of CIAC. This violation of the test year matching concept, as well as the statutory violation of not including test year amortization of CIAC on contributed plant, should be disallowed. (Merchant)

B. The appropriate amount of accumulated depreciation should be \$6,876,849 for Phase II rates. Several adjustments are appropriate. First, accumulated depreciation should be increased by \$2,040 for the agreed-upon adjustment for Audit Finding 5. Accumulated depreciation should also be increased to update the test year to 2016, which is a more representative period that will be consistent with and closer to the timeframe when the treatment plant expansion will be placed into service. Thus, average to year-end adjustment to accumulated depreciation should be

increased by \$183,207, which is net of the Company's adjustment to reflect year-end accumulated depreciation for the 2014 test year plant additions. Next using the 2014 year-end Depreciation Expense of \$462,339, accumulated depreciation should be increased by \$924,677 to reflect the 2015 and 2016 additions. Fourth, accumulated depreciation should be increased by \$67,026 and \$26,385, respectively related to the pro forma cost of the wastewater treatment plant expansion costs and the vacuum tank addition, along with the corresponding retirement. The total adjustments to accumulated depreciation for Phase II rates should be an increase of \$847,422. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

**ISSUE 8: What is the appropriate amount of CIAC to be used in determining the rate base that is used for setting rates?**

- A. For Phase I, if applicable
- B. For Phase II, if applicable

**POSITIONS**

**KWRU:** \$9,649,877 (Swain, Johnson)

**OPC:**

A. CIAC for Phase I rates should be \$9,649,877. CIAC should be decreased to reflect the net adjustment of the PAA agreed-upon audit adjustments of \$297,120 recommended by Audit Finding 4. No further updates to CIAC to reflect the amount of CIAC collected after December 31, 2014, should be made for the Phase I revenue requirement. (Merchant)

B. The appropriate amount of CIAC for Phase II rates should be \$10,717,289. The first adjustment relates to the agreed-upon adjustment to decrease CIAC by \$297,120 related to Audit Finding 5. Second, it is proper to update the test year to 2016, which is a more representative period that will be consistent with the timeframe when the treatment plant will be placed into service. Consistent with OPC's adjustments to plant and accumulated depreciation, the 2014 average balance of CIAC from the PAA Order should be increased by \$136,012 to reflect the year-end balance. Next, before any future plant expansion or pro forma plant is allowed, it is critical and appropriate to include the \$489,469 in actual CIAC that the Company

collected in 2015 and January through May 2016. If the Commission allows the new rates to be set without the consideration of the CIAC actually collected and the expected customer growth, then the rates established will immediately provide excess earnings to the Utility at a substantial cost to the existing and future customers, and it will also violate the matching principle.

Consistent with a pro forma 2016 test year, OPC updated CIAC through the end of 2016, relying upon OPC witness Woodcock's recommended growth allowance of 5% per year and his annual growth in the number of ERCs of 222. Thus, the estimated the additional level of ERCs will be added in the first year of operations. It is known and measurable that the Utility pre-collected 58.48 (48.88 plus estimated 9.60) ERCs of CIAC in 2016. Thus, consistent with a pro forma 2016 test year, it is appropriate to add the additional 163.68 ERCs at \$2,700 per ERC to equal the total number of ERCs that are expected through the end of 2016 for an increase to CIAC of \$441,931. If the Commission allows the project plant and expenses associated with growth and does not include the projected CIAC, the rates set will allow a return on contributed plant. (Merchant, Woodcock)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties, subject to potential additional connections and CIAC associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustments for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

**ISSUE 9: What is the appropriate amount of accumulated amortization of CIAC to be used for setting rates?**

- A. For Phase I, if applicable
- B. For Phase II, if applicable

**POSITIONS**

**KWRU:**

\$3,014,941 (Swain)

**OPC:**

A. Accumulated Amortization of CIAC should be decreased to reflect the net adjustment of the PAA agreed-upon audit adjustments of \$81,153 recommended by

Audit Finding 4, for a total balance of \$3,014,941 for Phase I rates. Since it is not appropriate to update CIAC for collections after December 31, 2014, no additional adjustments to Accumulated Amortization of CIAC is appropriate for Phase I rates. (Merchant)

B. Accumulated Amortization of CIAC (AA-CIAC) should be \$3,945,225 for Phase II rates. Using an amortization rate of 3%, adjustments are necessary to be consistent with the adjustments made to CIAC. First, AA-CIAC should be decreased by \$81,153 for Audit Finding 4. Second, AA-CIAC by \$204,033 should be increased to reflect the 2014 year-end balance. Third, two years of 2014 year-end amortization expense of CIAC of \$682,928 should be added for 2015 and 2016. Fourth, consistent with CIAC, AA- CIAC should be increased by \$27,903 to reflect the addition of actual CIAC for 2015 and January through May 2016. Lastly, I have added AA-CIAC on the projected additions to CIAC for the 2016 pro forma test year of \$15,421. For all of these adjustments, I have utilized the amortization rate used in the PAA Order of 3.49%. Based on these adjustments, the Phase II amount of Accumulated Amortization of CIAC should be \$3,945,225. First, I have included the adjustment to reflect the agreed-upon adjustment to decrease Accumulated Amortization of CIAC of \$81,153 from Audit Finding 4, consistent with OPC witness Merchant's adjustment for Phase I rates. Second, based on OPC witness Merchant's recommended adjustments to CIAC, it is appropriate to increase Accumulated Amortization of CIAC by \$204,033 to reflect the 2014 year-end balance. Third, consistent with OPC witness Merchant's adjustment to accumulated depreciation, I have added two years of the 2014 year-end amortization expense of CIAC of \$682,928 to reflect the amount that would have been added in for 2015 and 2016. Fourth, consistent with OPC witness Merchant's adjustments to CIAC, I increased Accumulated Amortization of CIAC by \$27,903 to reflect the addition of actual CIAC additions for 2015 and January through May 2016. Lastly, I have added Accumulated Amortization of CIAC on the projected additions to CIAC for the 2016 pro forma test year of \$15,421. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR  
SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 10: What is the appropriate amount of construction work in progress (CWIP) to be used for setting rates?**

- A. For Phase I, if applicable**
- B. For Phase II, if applicable**

**POSITIONS**

**KWRU:** \$0 since the plant expansion will be on-line when the rates go into effect. If not a single increase then the amount is subject to a Stipulation. (Swain, Castle, Johnson)

**OPC:** A. CWIP for Phase I rates should be \$780,571. Adjustments for Audit finding 2 create a CWIP related to construction costs for the wastewater plant expansion project of \$158,151 in 2014, and \$144,984 in 2015 for a total of \$303,135. Also, the 2015 balance of the Last Stand Legal Fees should be recorded in CWIP until the new wastewater treatment plant is placed into service. CWIP should be increased by \$477,436, until the WWTP expansion is placed into service. (Merchant)

B. The appropriate amount of CWIP for Phase II rates should be zero to reflect that the construction costs have been capitalized into plant. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR**

**SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 11: What is the used and useful (U&U) percentage of the Utility's wastewater treatment plant after the treatment plant expansion is placed into service?**

**POSITIONS**

**KWRU:** The wastewater treatment plant is 100% used and useful after the treatment plant expansion is placed in service. (Swain, Castle, Johnson, Seidman)

**OPC:** After projecting the increased amount of consumption to reflect 2016 consumption, the appropriate non-used and useful percentage should be 25%. This should be applied to the recommended balance of plant, accumulated depreciation, depreciation expense and property tax expense as shown on Exhibit PWM-3, Schedule 1-D. The appropriate reductions to rate base is \$1,632,646 (plant in service of \$2,429,995 less

accumulated depreciation of \$797,349). Corresponding reductions to depreciation expense of \$130,954 and to property taxes of \$16,177 are appropriate. (Woodcock, Merchant)

**COUNTY:** Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 12: What is the appropriate working capital allowance?**

- A. For Phase I, if applicable
- B. For Phase II, if applicable

**POSITIONS**

**KWRU:** \$1,458,270 based upon pro-forma test year balance sheet plus cost associated with permit litigation (Swain, Johnson)

**OPC:** A. The appropriate amount of working capital for Phase I rates should be \$328,976. Adjustments to the following working capital accounts are necessary:

A) Cash: 1) remove \$126,930 associated with an escrow account from capacity fees collected for the vacuum expansion project closed in March 2015; 2) remove \$141,828 for a "Customer Escrow Account," related to customer deposits; 3) remove an unused capital operating account equivalent to temporary cash investment with a balance of \$375,840; and 4) remove a the 13-month average balance \$115,643 in cash capital operating account related to an account funded by a single transfer in May 2014. This decrease of \$615,687 results in a cash balance of \$261,602.

B) Accounts Receivable: Per Audit Finding 7, 1) Accounts Receivable-Other should be increased by \$40,067 to add the cash clearing account for service availability and other customer receivables and extraordinary income corrections; and 2) Miscellaneous Current & Accrued Assets which should be reduced by \$13,422 to remove utility deposits. The net adjustment to working capital is an increase of \$26,645.

C) Deferred Debits-Other:  
1) Per Audit Finding 3, deferred debits should be increased by \$4,200 for the unamortized balance of deferred survey fees.

- 2) No amount of deferred debits should be included related to accounting fees the Utility incurred to restate its annual reports. See OPC's position on Issue 27.
- 3) Litigation fees for plant expansion: No inclusion of the balance of litigation fees related to the wastewater treatment plant expansion should be included in working capital as those are included in CWIP for Phase I and capitalized into plant for Phase II. See Issue 28.

D) Deferred Debits-Rate Case Expense: One half of the amount of rate case expense approved by the Commission should be allowed as a deferred debit. For purposes of OPC's testimony, \$76,011 was included as unamortized rate case expense in the PAA Order. This amount should be adjusted based on the Commission's final decision. (Merchant)

B. The appropriate amount of working capital for Phase II rates should be \$328,976. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 13: What is the appropriate rate base? (Fall-out)**  
A. For Phase I, if applicable  
B. For Phase II, if applicable

**POSITIONS**

**KWRU:** This is a fall-out calculation issue subject to the resolution of other protested issues.

**OPC:** A. The appropriate rate base for Phase I should be \$127,273. (Merchant)  
B. The appropriate rate base for Phase II should be \$604,323. (Merchant)

**COUNTY:** A. Agree with OPC.  
B. Agree with OPC.



**HARBOR**

**SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

Cost of Capital and Capital Structure

**ISSUE 14:** What is the appropriate capital structure to be used in setting rates?

- A. For Phase I, if applicable
- B. For Phase II, if applicable

**POSITIONS**

**KWRU:** This is a fallout calculation, based upon 100% equity financing of pro-forma plant (Swain)

**OPC:** A. The Utility's actual 2014 capital structure consisted of \$395,434 of debt to BB&T at 4% (variable rate of prime plus 0.75%); \$852,903 debt at 6% (fixed) to WS Utilities, an affiliate of KWRU; \$162,972 in customer deposits at 2%; a negative equity balance of \$276,537 with a \$3.5 million pro forma increase to equity to fund the WWTP expansion. For Phase I rates, the debt for the affiliate debt should be equal to the arms-length debt to BB&T, the negative equity balance should be zero, and the pro forma equity adjustment should be disallowed. (Merchant)

B. For Phase II rates, in addition to the adjustments made to the capital structure for Phase I rates, the Utility's pro forma adjustment to equity should be considered debt until the Utility can demonstrate that all of the pro forma adjustments will be infused as equity. The Utility's last minute equity infusions made in May, June and August, 2016, are questionable and, if allowed, should offset the actual negative equity balance on the Utility's books. As of August 2016, the Utility's negative equity balance was \$1,051,663 and its reported equity infusions (shareholder contributions) totaled \$2,041,903. At a minimum, the only equity that should be allowed should be netted against the negative retained earnings balance, or a net equity balance of \$989,240. Also, the Utility refinanced its debt to BB&T on July 15, 2016. In its refinancing, the Utility retired Note 5 balance of \$302,053 and received new Note 7 for \$1 million at a cost rate of prime plus .5%. Further, on September 21, 2016, the Utility obtained a \$2.5 million loan from BB&T at prime plus .5%. This debt should be used to support the cost of any pro forma plant, and no additional equity infusions should be recognized. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

**ISSUE 15: What is the appropriate return on equity?**

- A. For Phase I, if applicable**
- B. For Phase II, if applicable**

**POSITIONS**

**KWRU:**

Pursuant to Order No. PSC-16-0254-PAA-WS (leverage formula). (Swain)

**OPC:**

A. Because the negative balance of equity has been set to zero, the ROE for Phase I rates should be 11.16%, with an allowed range of plus or minus 100 basis points. (Merchant)

B. Because the negative balance of equity has been set to zero and debt has been increased to fund the projected plant additions, the ROE for Phase II rates should be 11.16%, with an allowed range of plus or minus 100 basis points. If consideration is given to any funds infused into the capital structure after 2014, offsets should be made to recognize that any equity infusions first offset negative equity and CIAC additions and new debt issuances are also funding the projected plant additions. If the Commission allows some or all of the Utility's pro forma adjustment to increase equity above zero related to the pro forma plant additions, then it is appropriate to use the Commission's leverage formula approved in Order No. PSC-15-0259-PAA-WS. (Merchant)

**COUNTY:**

A. The appropriate return on equity (ROE) for the period during which the PAA Rates are in effect is the rate determined by applying the Commission's leverage formula pursuant to Section 367.081(4)(f), Florida Statutes, and Rule 25-30.415, F.A.C., as implemented by the Commission's Orders.

B. The appropriate return on equity (ROE) for setting Phase II Rates is the rate determined by applying the Commission's leverage formula pursuant to Section 367.081(4)(f), Florida Statutes, and Rule 25-30.415, F.A.C., as implemented by the Commission's Orders.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

**ISSUE 16: What is the appropriate cost of long-term debt?**

- A. For Phase I, if applicable**
- B. For Phase II, if applicable**

**POSITIONS**

**KWRU:** 4.25% (Swain)

**OPC:** A. The appropriate cost of debt for Phase I should be 4% for both the BB&T and the WS Utilities debt for Phase I rates.. (Merchant)

B. The appropriate cost of debt for Phase II should be 4.00% for both BB&T loans that were issued in July and September 2016WS Utilities debt should be reclassified to equity to offset the negative equity balance. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR SHORES:**

Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 17: What is the appropriate weighted average cost of capital based on the proper components, amounts, and cost rates associated with the capital structure for the test year period? (Fall-out)**

- A. For Phase I, if applicable**
- B. For Phase II, if applicable**

**POSITIONS**

**KWRU:** 8.06% (Swain).

**OPC:** A. The appropriate overall rate of return for Phase I rates should be 3.39%. (Merchant)

B. The appropriate overall rate of return for Phase II rates should be 3.53% , and is a fall-out of the other cost of capital issues. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

Net Operating Income

**ISSUE 18: Should the members of Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores) be classified as Residential customers or a General Service customer?**

**POSITIONS**

**KWRU:**

Based on each residential unit having an FKAA residential water meter, Harbor Shores residential units should be classified as residential customers.

**OPC:**

Maybe. The Commission should determine whether Harbor Shores is a general service customer or not, and what if any, remedy is appropriate.

**COUNTY:**

No position.

**HARBOR SHORES:**

The members of Harbor Shores HOA should be classified as A General Service customer, however, if the Commission decides that the members are Residential customers to be billed individually, then the Commission should address the issue of Private Property access and the easement rights of KWRU to disconnect a non-paying customer and the Commission should also address the issue of customer deposits being required when the members have been customers for almost ten years.

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

**ISSUE 19: What are the appropriate bills and gallons to use to establish test year revenues and rates?**

**A. For Phase I, if applicable**

**B. For Phase II, if applicable**

**KWRU:**

As stated in the PAA (Swain, Johnson)

**OPC:**

A. It is appropriate to use the PAA Order billing determinants approved in the PAA Order for Phase I rates. Although it is evident that the 2015 and 2016 revenues and billing determinants were higher than those in the 2014 test year, OPC's revenue

requirement calculations based on the PAA Order billing determinants are reasonable for setting Phase I rates. (Merchant)

B. Consistent with OPC's adjustments to Phase II test year revenues and to comply with the matching principle, the bills and gallons used to calculate the rates should be increased to reflect the projected level of customers that will be online for the first year of operation of the wastewater treatment expansion. The actual increase in 2015 revenues should be used to estimate the number of bills and gallons by customer class as the Utility has not provided the restated number of 2015 customers and gallons consistent with the method used by the Commission in the PAA Order. To determine the appropriate 2016 billing determinants, the 2015 levels should be escalated conservatively by 5%, consistent with OPC witness Woodcock's used and useful projection. OPC's calculations for the 2016 level of bills and gallons are reflected on Exhibit PWM-3, Schedule 4-B. (Merchant)

**COUNTY:**

A. Agree with OPC subject to additional changes in estimated numbers of bills and gallons that may be developed at hearing, including potential additional connections and usage associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustment for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

B. Agree with OPC subject to additional changes in estimated numbers of bills and gallons that may be developed at hearing, including potential additional connections and usage associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustments for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

**ISSUE 20: What is the appropriate amount of miscellaneous revenues to be included in test year revenues and rates?**

- A. For Phase I, if applicable**
- B. For Phase II, if applicable**

**POSITIONS**

**KWRU:** As stated in the PAA, increased for the increase in miscellaneous rates. (Swain)

**OPC:** A. The appropriate amount of miscellaneous revenues for Phase I rates should be \$72,619. (Merchant)

B. The appropriate amount of miscellaneous revenues for Phase II rates should be \$86,421 based on a projected 2016 level. The projection should use the actual 2015 miscellaneous revenues of \$104,651 from the Utility's General Ledger as of December 31, 2015. First, it is appropriate to remove the \$19,500 received for reuse testing from the MCDC from 2015 miscellaneous revenues, as that tariffed rate should be discontinued and included in the reuse rate. Second, the amount of the MCDC Lift Station Cleaning Income should match the annual income of \$17,544 (\$1,462\*12 months) tariff rate approved in the PAA Order, a decrease of \$2,081. Then the remaining miscellaneous service revenue accounts should be escalated by 5%, an increase of \$3,276, which is consistent with the other escalation factors used in OPC's pro forma 2016 Phase II rate projections. The net result of OPC's 2016 adjustments increase the adjusted miscellaneous revenues by \$13,802. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR**

**SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 21: What is the appropriate amount of test year revenues for KWRU's wastewater system? (Fall-out)**

- A. For Phase I, if applicable**
- B. For Phase II, if applicable**

**POSITIONS**

**KWRU:** Stipulation.

**OPC:** A. The test year revenues for Phase I before any revenue increase should be \$1,534,799. (Merchant)

B. The test year revenues for Phase II before any revenue increase should be \$1,701,630. (Merchant)

**COUNTY:** A. Agree with OPC subject to additional changes in estimated numbers of bills and gallons, and associated revenues, that may be developed at hearing, including potential additional connections and usage associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustments for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

B. Agree with OPC subject to additional changes in estimated numbers of bills and gallons, and associated revenues, that may be developed at hearing, including potential additional connections and usage associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustments for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 22:** **What adjustments, if any, should be made to account for the audit adjustments in each of Staff's Audit Findings 3, 4, 5, 10, and 11 to operating expenses?**

**POSITIONS**

**KWRU:** Stipulation.

**OPC:** The following expense adjustments should be made based on adjusted audit findings:

- O&M expenses (contractual services-other) should be increased by \$1,200 for survey fees based on the Staff Audit Finding 3.
- Amortization of CIAC should be decreased by \$14,003 based on Staff Audit Finding 4.
- Depreciation expense should be decreased by \$5,489, based on Staff Audit Finding 5.

- No additional expense adjustments related to Audit Finding 6 should be made. Audit Finding 3 adjustment above relates to the amortization of land survey fees. No amortization adjustment is necessary for deferred accounting fees as these costs should be disallowed. Also, any component of the deferred litigation fees should be added to CWIP in Phase I rates and should be capitalized to plant in service for Phase II.
- O&M expenses should be decreased by \$4,512, based on Staff Audit Finding 10 and \$6,276, based on Staff Audit Finding 11. (Merchant)

**COUNTY:** Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR  
SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 23:** **What are the appropriate annual levels of O&M expenses for implementing advanced wastewater treatment (AWT)?**  
A. For Phase I, if applicable  
B. For Phase II, if applicable

**POSITIONS**

**KWRU:** \$2,220,932, plus amortization of additional actual rate case expense. (Swain, Johnson)

**OPC:** A. In the Phase I revenue requirement calculation, the Commission allowed the full level of pro forma O&M expenses to implement AWT for the existing plant and the for a full year after the new plant expansion is placed into service. Since the Utility did not implement AWT on its existing plant until January 1, 2016, the historical test year does not include sufficient actual levels of costs to implement AWT on the existing plant. While OPC agrees that some adjustment is necessary to the historic test year, Phase I O&M expenses to allow for AWT implementation should be no more than the actual annualized levels incurred for 2016. The Utility provided the January to April 2016 level of operating expenses and those expenses totaled \$237,762. The majority of the expense accounts should be multiplied by 3 to reflect a full year of expenses. For chemicals, purchased power and sludge hauling expenses, the first four months of 2016 should be multiplied by 3.25 to recognize that the flows generally increase in the last quarter of the year. Specific adjustments should then be made to reduce O&M expenses by: 1) \$9,588 (Audit Findings 3, 10 and 11), 2) \$60,000 for the management fee for affiliate services not necessary or supported, 3) \$12,350 accounting and \$653 engineering fees removed in the PAA Order, 4) \$44,785 overstated general liability insurance. Lastly, O&M expenses should be increased by \$38,005 to add back in rate case expense approved in the



PAA Order. The net adjustment to annualize the Phase I O&M expenses is a decrease of \$301,461. (Merchant)

B. The appropriate amount of Phase II O&M expenses should be \$1,809,082. Adjustments are appropriate to reflect the agreed-upon audit adjustments, contractual services-accounting, contractual services-engineering, management fees, and rate case expense for Phase II O&M expenses. The amortization of legal fees for the permit litigation fees incurred which should be capitalized, and the amortization of accounting fees to correct the Utility's books and records for 2007-2011, which should be disallowed as unreasonable and costs related to prior periods. Additionally, the reduction to pro forma expenses made by the Commission in the PAA Order of \$10,028 is appropriate for Phase II rates. A further reduction of \$29,223 to the Utility's requested pro forma expenses should be made to Sludge Removal, Purchased Power, Chemicals, and Material and Supplies Expenses to reflect consumption levels recommended by OPC witness Woodcock's engineering analysis and growth for the first year that the new plant expansion will be placed into service. Lastly, the additional \$245,501 in expense adjustments included in Utility witness Swain's direct testimony should be disallowed. These expenses are in addition to the more than \$840,000 in pro forma adjustments requested in the MFRs and were not included in KWRU's original rate case filing. The Utility has failed to identify any known and measurable changes that have occurred subsequent to the test year, which would require these additional costs to be included in the revenue requirement. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties. If the Commission recognizes the inclusion of additional wastewater flows and sales of service by KWRU, the addition of truly variable incremental O&M costs, e.g., chemicals, should be allowed.

**HARBOR  
SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 24:** **What adjustments, if any, should be made to pro forma contractual services accounting and engineering fees?**

**POSITIONS**

**KWRU:** None. (Swain, Johnson)

**OPC:** The Utility's \$12,350 pro forma increase for additional accounting services, not related to the correction of its books and records, should be disallowed. The additional work performed in the test year did not warrant an adjustment to increase accounting fees on a going-forward basis and the Utility indicated that the increase in wastewater treated would not increase the prospective amount of accounting transactions relative to the amount of flows received. Contractual services-engineering expense should also be decreased by \$653 to correct expenses for an invoice that was capitalized. (Merchant)

**COUNTY:** Agree with OPC.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 25:** **What adjustment, if any, should be made to KWRU's test year expenses for management fees charged by Green Fairways?**

**POSITIONS**

**KWRU:** None. (Swain, Johnson)

**OPC:** Consistent with the decision in the PAA Order, contractual services-management expense should be decreased by \$60,000 for both Phase I and Phase II rates for an affiliate transaction that is not necessary for the provision of regulated utility service. The majority of the management duties provided by Green Fairways is duplicative of the in-house officers and management the Utility has hired since its last rate case. Further, the services provided by the affiliate primarily benefit the Utility's shareholder and the affiliate does not provide true, independent third party oversight over the Utility. (Merchant)

**COUNTY:** Agree with OPC.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 26: What is the appropriate amount of rate case expense?**

**POSITIONS**

**KWRU:** Actual rate case expense excluding the cost to respond to deficiencies through completion of the case. The amount expended through October 23, 2016 was \$396,993.84 (Swain)

**OPC:** The Commission approved rate case expense of \$152,021. Amortized over 4 years, this equates to an annual expense of \$38,005. The Utility's requested rate case expense should be increased by \$6,805 (\$38,005 - \$31,200). The final amount should be fully supported, not duplicative, and reasonable. Adjustments should be made to remove duplicative and excessive legal fees should be reduced to remove the filing fees, costs incurred to submit and address deficiencies in the MFRs, and a reasonable estimate to complete. 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 data request, a discovery response, attend a conference call with staff, attend the prehearing conference, or pay for hours associated with "researching" different Commission functions such as the PAA process. Accounting fees should be reduced to remove duplicate filing costs to correct MFR deficiencies, to reflect a reasonable level of estimated hours to complete the case, and to remove duplicative, unsupported, and other accounting invoices not related to rate case expense. The Commission should carefully review the accounting rate case expense invoices to determine whether the Utility's inadequate record keeping has increased the amount of accounting work performed to prepare the MFRs, address audit findings and respond to discovery, and any rate case expense related to bringing the Utility's books into compliance included in rate case expense should be disallowed. Adjustments are also appropriate to reflect a reasonable cost for customer notices, printing and shipping, and rate case travel expenses. (Merchant)

**COUNTY:** Agree with OPC, subject to additional adjustments that may be identified through continuing discovery.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 27: What is the appropriate amount and accounting treatment of accounting fees incurred by the utility to restate its 2007 to 2012 Annual Reports?**

**POSITIONS**

**KWRU:** \$63,055. deferred and amortized over 5 years per Audit Finding 6 (Swain)

**OPC:** The \$11,678 in amortization for accounting costs related to restating the Utility's books and records subsequent to the last rate case decision and prior to filing this current rate case are unreasonable and should be disallowed. KWRU fails to explain how restating the Annual Reports provided any future benefit to KWRU or its customers, nor were any of the corrected annual reports filed with the Commission. Further, the Utility failed to make the Commission-ordered adjustments from the last rate case, and subsequently incurred \$63,056 in 2014 to bring its records into compliance with the Commission's Order and the accounting requirements of the NARUC Uniform System of Accounts. Given the substantial number of Staff audit adjustments in this case, the detailed accounting analysis was not sufficient to properly correct the Utility's books for accounting and ratemaking purposes. This extra expense for outside accounting services is not a cost that is reasonable or prudent as the books and records should have been correctly maintained. The ratepayers should not pay *in future rates* for costs to repair the Utility's records when that should have been incurred annually since the last rate case. (Merchant)

**COUNTY:** Agree with OPC, subject to additional adjustments that may be identified through continuing discovery.

**HARBOR SHORES:**

Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 28: What is the appropriate amount and accounting treatment of fees associated with the legal challenge of KWRU's FDEP Permit Numbers FLA014951-012-DWIP, 18490-020, and 18490-021 for rate-setting purposes?**

- A. For Phase I, if applicable
- B. For Phase II, if applicable

**POSITIONS**

**KWRU:** \$487,564.07 deferred and amortized over 5 years, per PAA. (Swain)

**OPC:** A. In its filing, the Utility requested total fees of \$519,585 to be amortized over 5 years for an annual amortization expense of \$103,917. The Utility agreed that the litigation costs should be decreased by \$42,157 to remove unsupported legal fees (Audit Finding 16). Thus, the balance of total litigation fees should be \$477,436.

These costs were incurred directly by KWRU to obtain permission from DEP to build KWRU's treatment plant expansion. While the title of the permit was labeled as an operating and construction permit, the permit for the existing plant had two more years before it expired. This permit, along with the two permits to build two additional shallow injection wells, were necessary only for the fact that the utility wanted and needed to expand its capacity, and the legal challenge impact on the existing operations treatment plant was minimal if at all. These legal fees, defending the plant expansion needed for future customer growth, clearly belong with the capital costs associated with the plant expansion and should be recovered over the life of the plant, as required by the NARUC Uniform System of Accounts (USOA). They should not be considered non-recurring expenses for renewing a normal operating permit. Since the wastewater treatment plant is not in service, the auditor's adjusted cost of the construction permit legal and consulting fees of \$477,436 should be recorded in CWIP for the Phase I rates. The Utility's requested deferred debit balance of \$467,625 for the legal and consulting fees should be removed from Working Capital and test year O&M Expenses should be reduced by the Utility's requested \$103,917 in amortization. (Merchant)

B. For Phase II rates, \$477,436 should be added to Account 380-Wastewater Treatment & Disposal Plant. The Utility's requested deferred debit balance of \$467,625 for the legal and consulting fees should be removed from Working Capital and test year O&M Expenses should be reduced by the Utility's requested \$103,917 in amortization. (Merchant)

**COUNTY:** A. Agree with OPC.

B. Agree with OPC.

**HARBOR SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 29:** **What is the appropriate amount of depreciation expense to be used in setting rates?**

- A. **For Phase I, if applicable**
- B. **For Phase II, if applicable**

**POSITIONS**

**KWRU:** \$473,323 (Swain)

**OPC:** A. Net depreciation expense should be \$104,511 for Phase I rates. Adjustments are appropriate to increase amortization of CIAC by \$14,003 (Audit Finding 4) and decrease depreciation expense by \$5,489 (Audit Finding 5). Also, the pro forma

depreciation expense for the wastewater treatment plant expansion should be reduced by \$196,281 and the Utility's adjustment to reflect the year-end annualization of depreciation expense should be removed, a reduction of \$4,384. (Merchant)

B. The net depreciation expense for Phase II rates is 224,316, which is a net decrease of \$72,346. Adjustments are appropriate to increase amortization of CIAC by \$14,003 (Audit Finding 4) and decrease depreciation expense by \$5,489 (Audit Finding 5). Third, the 2014 depreciation expense should be increased by \$13,718 to reflect the year-end balance. Fourth, depreciation expense should be increased by \$67,026 to reflect the additional WWTP expansion projected costs including the capitalized permit litigation fees. The fifth and sixth adjustments relate to the vacuum tank depreciation expense and the adjustment to remove the related retirement, an increase of \$26,385 and a decrease of \$19,789, respectively. Depreciation expense should also be reduced by \$130,954 based on OPC's 25% non-used and useful percentage. Lastly, consistent with the adjustments to CIAC, amortization of CIAC should be increased by \$4,746 to reflect a year-end balance, amortization of \$17,079 should be add for the 2015 and 2016 actual additions to CIAC, and amortization should be increased by \$15,421 on the additional 2016 CIAC projected to be collected during the first year of operation of the WWTP expansion. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR SHORES:** Agree with OPC (A & B).

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 30:** **What is the appropriate amount of taxes other than income to be used in setting rates?**

- A. **For Phase I, if applicable**
- B. **For Phase II, if applicable**

**POSITIONS**

**KWRU:** \$288,613 (Swain)

**OPC:** A. For Phase I Rates, the adjusted 2014 balance of taxes other than income should be \$153,029, resulting in a net decrease of \$92,878 to the Utility's requested balance. Adjustments are appropriate to remove the \$62,863 of regulatory assessment fees on OPC's calculated test year revenue adjustment. Next payroll taxes should be

increased by \$5,682 to reflect the annualization of payroll taxes consistent with the method that used to adjust Phase I salaries for AWT. Last, the Utility's requested pro forma adjustment to property taxes of \$35,696 on the pro forma plant should be removed. (Merchant)

B. For Phase II Rates, the total 2016 pro forma test year taxes other than income should be \$189,605. This is a decrease of \$56,302 to the Utility's requested balance. Adjustments are appropriate to remove the \$55,356 of regulatory assessment fees on OPC's calculated test year revenue adjustment. Second, payroll taxes should be reduced by \$1,875, which was made in the PAA Order, as OPC concurs with the pro forma level of salaries the Commission allowed. Third, property taxes should be increased by \$13,355 to reflect the adjusted pro forma plant included for Phase II rates. Last, property taxes should be reduced by \$16,177 related to non-used and useful plant. (Merchant)

**COUNTY:** A. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

B. Agree with OPC and with the adjustments addressed in the stipulations agreed to by the Parties.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

Revenue Requirement

**ISSUE 31: What is the appropriate revenue requirement? (Fall-out)**

- A. For Phase I, if applicable
- B. For Phase II, if applicable

**POSITIONS**

**KWRU:** \$3,404,501 and rate case expense of \$99,248.46 for a total revenue requirement of \$3,503,749.46. (Swain)

**OPC:**

A. Based on OPC's adjustments to the Phase I rate base, cost of capital and operating expenses, the appropriate revenue requirement for Phase I rates should be \$1,821,639. This represents an increase of \$286,840, or 18.69%, to adjusted 2014 test year revenues. (Merchant)

B. Based on OPC's adjustments to the Phase II rate base, cost of capital and operating expenses, the appropriate revenue requirement for Phase II rates should be \$2,269,893. This represents an increase of \$568,263, or 33.40%, to adjusted 2016 pro forma test year revenues. Further, it is inappropriate for this large Utility, through

its testimony, to seek a rate increase that exceeds its requested revenues in its original petition by more than 413,000. Other than the treatment plant expansion and vacuum tank replacement, the other pro forma adjustments are unsupported. Nor has the Utility provided any notice to its customers that it has requested higher revenues, and thus, rates higher than those that were included in the official customer notice of the case. Any revenue increase above the original request should be completely denied, consistent with the Commission's long standing practice, especially if the Commission determines that the Utility failed to comply with the customer notice requirements. (Merchant)

**COUNTY:** A. Agree with OPC subject to additional changes in estimated numbers of bills and gallons, and associated revenues and costs, that may be developed at hearing, including potential additional connections and usage associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustments for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

B. Agree with OPC subject to additional changes in estimated numbers of bills and gallons, and associated revenues and costs, that may be developed at hearing, including potential additional connections and usage associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustments for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

**HARBOR  
SHORES:**

Agree with OPC (A & B).

**STAFF:**

Staff has no position pending evidence adduced at the hearing.

Rates and Rate Structure

**ISSUE 32: What are the appropriate rate structures and rates for KWRU's wastewater system?**

**POSITIONS**

**KWRU:**

Rate structure: per PAA. Rates: fall-out using staff formula (used in PAA) (Swain)

**OPC:**

The PAA Order change to the base facility charge and gallonage charge allocation of 40/60 are reasonable for this utility. The Commission's restatement/correction of the



test year bills and gallons by meter size is also appropriate. I further concur that a full investigation should be made to determine that the Utility has correctly implemented the changes made to bill its customers by the appropriate class and meter size as well as calculate refunds for customers who were improperly billed at a non-tariffed rate. As addressed in Issue 19, the Phase II billing determinants should be escalated to project the expected revenues from new customers that have been added since the end of 2014 and which are expected to be added after the plant expansion is placed into service.

For Phase I service rates, OPC calculates a \$25.02 base facility charge and a \$4.15 gallonage charge for residential customers, which equates to a \$41.62 monthly bill with 4,000 gallons of consumption. For Phase II service rates, OPC calculates a \$28.06 base facility charge and a \$4.65gallonage charge for residential customers, which equates to a \$46.66 with 4,000 gallons of monthly consumption. The setting of Phase I rates is not required for purposes of determining a refund of Phase I revenue requirement; however, the Commission should calculate Phase I revenue requirement for purposes of determining whether refunds are owed to the customers. (Merchant)

**COUNTY:** The appropriate rates to be charged by KWRU are the rates that will recover the Utility's reasonable and prudent costs of providing service to customers during the time periods in which the rates will be in effect. As to specific rates, at this time Monroe County agrees with OPC subject to additional changes in estimated numbers of bills and gallons, and associated revenues and costs, that may be developed at hearing, including potential additional connections and usage associated with additional developments projected to be connected to KWRU's system within the time period ending 12 months after the new WWTP becomes commercially operational, and specifically including potential adjustments for the addition of customers in Key Haven and other developments on North and South Stock Island, which is the subject of continuing discovery.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 33:** **What is the appropriate rate for KWRU's reuse service?**

**POSITIONS**

**KWRU:** \$.93 per PAA. (Swain)

**OPC:** The Utility's requested rate of \$1.34 is appropriate to charge for reuse, and is more reasonable than the rate of \$0.93 per thousand gallons approved in the PAA Order. Currently, the two largest users of reuse water are the affiliate golf course and

Monroe County Detention Center. The FKAA provides water for KWRU's service territory with a gallonage charge range of \$5.84 to \$11.70 per kgal. FKAA's reuse rate for a low level of consumption is \$2.92 per kgal. Market-based reuse rates are appropriate to provide an incentive to encourage customers to use reuse. In Monroe County, only two entities, including KWRU, currently charge for reuse and KWRU's rate is significantly lower than the other provider. Thus, KWRU's requested rate of \$1.34 is reasonable, given the comparable rate of the local water provider. Additionally, no additional charge for testing should be approved. Using KWRU's higher requested reuse rate reduces the burden on the residential and general service customers to achieve the approved revenue requirement; and, consequently, a lower reuse rate has the opposite effect. (Merchant)

**COUNTY:** Agree with OPC.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 34:** What are the appropriate miscellaneous service charges to be charged by KWRU?

**POSITIONS**

<b><u>KWRU:</u></b>	During Bus Hrs.	After Hrs.
Initial connection	\$75	\$125
Normal connection	\$75	\$125
Disconnect/Reconnect Non-Payment	\$150	\$225
Violation Connection	Actual Cost	Actual cost
Premise Visit (Swain, Johnson)	\$65	\$125

**OPC:** The initial connection charge and normal reconnection charge should remain at \$15 and the premises visit charge should be \$20 for normal hours and \$45 for after hours, as approved by the Commission in its PAA Order. Should the Commission approve higher levels of miscellaneous service charges, higher miscellaneous revenues should be used when calculating the amount of revenues to be collected from service rates. However, miscellaneous service charges should not exceed what KWRU requested and supported in its direct testimony. (Merchant)

**COUNTY:** No position at this time.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 35: Should KWRU be authorized to collect Non-Sufficient Funds (NSF) charges?**

**POSITIONS**

**KWRU:** Stipulation.

**OPC:** Yes. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

- a. \$25, if the face value does not exceed \$50,
- b. \$30, if the face value exceeds \$50 but does not exceed \$300,
- c. \$40, if the face value exceeds \$300,
- d. Or five percent of the face amount of the check, whichever is greater. (Merchant)

**COUNTY:** Yes. Monroe County agrees with the stipulation on this issue.

**HARBOR  
SHORES:**

Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 36: Should KWRU request to implement a late payment charge be approved?**

**POSITIONS**

**KWRU:** Yes, \$9.50 (Swain)

**OPC:** KWRU's request to implement a \$9.50 late payment charge should not be approved, as the \$6.50 charge approved by the Commission in the PAA Order is more reasonable. (Merchant)

**COUNTY:** Yes. No position at this time as to the amount of such charge, pending further review of discovery responses.

**HARBOR  
SHORES:**

Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 37: Should KWRU's be authorized to collect a Lift Station Cleaning charge?**

**POSITIONS**

**KWRU:** Stipulation.

**OPC:** KWRU should be authorized to collect a monthly lift station cleaning charge of \$1,462 from the Monroe County Detention Center. This results in an annual charge of \$17,544. (Merchant)

**COUNTY:** Yes. Monroe County agrees with the Parties' proposed stipulation on this issue: KWRU should be authorized to collect a monthly lift station cleaning charge of \$1,462 from the Monroe County Detention Center.

**HARBOR  
SHORES:**

Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 38: If the Commission approves a rate increase for KWRU, when and under what circumstances should it be implemented?**

**POSITIONS**

**KWRU:** Yes, immediately upon issuance of final order. (Swain)

**OPC:** The Phase I rates should be implemented after the issuance of the final order in this case, and once verified by staff, the Phase I rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. Implementing Phase I rates assumes the 350,000 gpd WWTP expansion project will not be in service by the time the final order is issued.

The Phase II rates should be implemented no sooner than 30 days after the new plant is placed into service and becomes used and useful. Further, the implementation of the Phase II rates should be conditioned upon KWRU completing the pro forma items with appropriate approvals from DEP. Once verified by staff, the Phase II rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. If the Utility encounters any unforeseen events that will impede the completion of the Phase II plant items, then KWRU should immediately notify all parties to this proceeding and the Commission, in advance of the deadline, so as to allow ample time to review whether an extension is appropriate.

If the Commission approves KWRU's request to implement a rate increase prior to the new plant's in-service date and forgo a two-phase rate increase, the Commission should require a true-up mechanism, and the Commission should ensure that all

substantially affected persons and parties have an appropriate point of entry to test the reasonableness and prudence of costs that will be included in such rates. Nevertheless, the Commission should still establish Phase I revenue requirements for the purposes of determining what refunds, if any, are owed to customers. (Merchant)

**COUNTY:** Any permanent or Phase II rate increase should be implemented on the first day of the first month (or billing period) following commercial operation of the new WWTP.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 39:** **Should any portion of the implemented PAA rates be refunded? If so, how should the refund be calculated, and what is the amount of the refund?**

**POSITIONS**

**KWRU:** No portion of the PAA rates should be refunded. (Swain)

**OPC:** Yes, the Commission-approved Phase I PAA rates that were implemented by the Utility were excessive based on OPC's Phase I revenue requirement calculation. The refund should be applied consistent with the Commission's refund rule and should be credited to customer bills over the same amount of time that the increased rates were collected to offset the initial impact of the Phase II rate increase. (Merchant)

**COUNTY:** Yes. The amount to be refunded should be the difference between (a) the amounts collected by KWRU from the effective date of the PAA Rates (on or about May 1, 2016) until the effective date of the new/permanent/Phase II rates minus (b) the revenue requirements that should have been collected during the same time period. Any refund should be calculated and made pursuant to Commission Rule 25-30.360, F.A.C.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 40: Should the Utility's approved service availability policy and charges be revised?**

**POSITIONS**

**KWRU:** Stipulation.

**OPC:** Yes, the Utility should be allowed to continue to collect the \$2,700 per ERC plant capacity charge. (Merchant)

**COUNTY:** No. Monroe County agrees with the Parties' proposed stipulation on this issue: The appropriate plant capacity charge should remain unchanged at \$2,700 per ERC.

**HARBOR SHORES:**

Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 41: Dropped - Should Harbor Shores have been classified as a General Service customer since the last rate case in 2009, and, if so, what action should the Commission take to refund the excess payments made by Harbor Shores since 2009?**

**POSITIONS**

**KWRU:** Dropped.

**OPC:** Dropped.

**COUNTY:** No position.

**HARBOR SHORES:**

This issue is addressed in Issue #18 above and is further addressed in our Statement of Basic Position. Harbor Shores is billed by KWRU via monthly spreadsheet and Harbor Shores has paid the charges for all sixty-nine Units for the last ten years. We have a Utility Agreement with KWRU that requires us to pay for all units and it has been told to us on many occasions, that should it be changed to individual billing, then if one person does not pay, the "whole park will be shut off from sewer service". Since we are, therefore, responsible for all Unit member payments and our Agreement does not give KWRU Property Rights or access to any non-public areas in the Park, it follows that we are one General Service Customer and we should be charged accordingly.

We ask the Commission to review this matter and if the Commission agrees that we have been incorrectly classified and overcharged, then the Commission should also decide what, if any, refund is due Harbor Shores for almost ten of excess payments

If the Commission decides that Harbor Shores members are Individual Residential Customers and each member is to be billed by KWRU, then we also ask that the Commission address the issue of individual delinquent payments and how KWRU and/or the Commission would propose to handle that situation.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 42:** **Did KWRU bill and collect revenues in accordance with its approved tariffs? If not, what is the appropriate remedy?**

**POSITIONS**

**KWRU:** All bills and collections were in accordance with the intent of the approved tariffs.

**OPC:** The PAA Order stated that the Utility's billing practice for several general service customers is inconsistent with its approved tariff, and that Staff would address whether the Utility should be ordered to 'show cause' for charging rates that are inconsistent with its tariff in a subsequent proceeding. Commission Staff sent a letter dated February 18, 2016, to KWRU requesting the Utility to provide a response by March 21, 2016, describing when and under what circumstances each outlined violation occurred and the Utility's plan to correct the billing errors. By letter dated March 21, 2016, the Utility sent a 6 page response, with 22 pages of documents attached. OPC agrees that the issues are very complex and the Utility may owe additional refunds to customers not charged the approved tariffed rates. To rectify this, the Commission should initiate a full audit and investigation up to and potentially including an order to show cause to determine whether and how much of the revenues billed were based on unapproved, thus improper, erroneous billing classifications, and how much these, and potentially other improperly billed customers, are owed in refunds. (Merchant)

**COUNTY:** Agree with OPC.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 43:** 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?

**POSITIONS**

**KWRU:** This is a fallout issue. (Swain)

**OPC:** The rate reduction is a fall-out based on the revenue requirement and the amount of rate case expense.

**COUNTY:** Agree with OPC.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 44:** 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?

**POSITIONS**

**KWRU:** Yes.

**OPC:** Yes.

**COUNTY:** Yes.

**HARBOR SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

**ISSUE 45:** Should this Docket be closed?

**POSITIONS**

**KWRU:** Yes upon verification of post Final Order requirements.

**OPC:** No.



**COUNTY:** Agree with OPC.

**HARBOR  
SHORES:** Agree with OPC.

**STAFF:** Staff has no position pending evidence adduced at the hearing.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
			<u>Direct</u>
Castle	KWRU	ERC-1	Schedule of increase in wastewater flows
		ERC-2	Explanation Letter re bidding vacuum tank replacement
		ERC-3	Estimate of vacuum tank replacement cost
		ERC-4	Schedule of engineering cost for vacuum tank replacement
Johnson	KWRU	CAJ-1	Resume
		CAJ-2	MFRs Volume III
		CAJ-3	Plant Expansion Construction Contract
		CAJ-4	Data Request Responses
		CAJ-5	Wastewater Compliance Inspection Report
		CAJ-6	Glenn Miller housing agreement
		CAJ-7	Ted Yarboro housing agreement
Seidman	KWRU	CAJ-8	Customer communications
		FS-1	Experience
		FS-2	Schedule F-10 with comparison to PAA Order

<u>Witness</u>	<u>Proffered By</u>		<u>Description</u>
Swain	KWRU	DDS-1	MFRs (except F Schedules)
		DDS-2	Updated cost of pro-forma projects
		DDS-3	Rate Case Expense
Woodcock	OPC	ATW-1	Resume of Andrew T. Woodcock
		ATW-2	Used and Useful Calculation
		ATW-3	Adjustments to Vacuum Tank Replacement Estimate
		ATW-4	Recommendation of Vacuum Tank Rehabilitation Award to Key Largo Wastewater Treatment District
Merchant	OPC	PWM-1	Resumé of Patricia W. Merchant
		PWM-2	Phase I Accounting Schedules
		PWM-3	Phase II Accounting Schedules (as amended)
		PWM-4	OPC Interrogatory 27 – FL Keys Linen 2012 Addendum to Utility Service Agreement
		PWM-5	KW Response to Staff Audit Document Request 5 – Pro Forma Expenses (as amended)
		PWM-6	KW 2015 PSC Annual Report
		PWM-7	Bankrate.com WSJ Prime Rate of Interest
		PWM-8	FCAA Water Fees and Charges
		PWM-9	GDU Silver Springs Shores Hearing Transcript
Wilson	COUNTY	KGW-1	Resumé of Kevin G. Wilson, P.E.

		KGW-2	List of Prior Testimony
		KGW-3	Aerial Photo of Stock Island
		KGW-4	2010 Census Data Comparison of Stock Island with Other Lower Keys Islands
		KGW-5	2010-2014 American Community Survey 5-Year Estimates
		KGW-6	Monroe County Sanitary Master Wastewater Plan “Hot Spot” Excerpt, Exh. 6-1
		KGW-7	Monroe County Code, Section 20-102
		KGW-8	Number of General Service Customers by Meter Size
		KGW-9	Excerpt from KWRU Appraisal Report as of 12/31/2014
		KGW-10	Projected 2017 Flows from Residential & Commercial Properties Being Developed or Existing but not yet Connected
Santamaria	COUNTY	AMS-1	Resumé of Ada Mayté Santamaria
		AMS-2	Monroe County Sanitary Master Wastewater Plan “Hot Spot” Excerpt, Exh. 6-1
		AMS-3	Bernstein Trust Project Resolution & Building Permit
		AMS-4	Resolutions for Oceanside Project
		AMS-5	Resolutions for Stock Island Marina Village
Deason	COUNTY	TD-1	Biographical Information for Terry Deason

Piedra	Staff	IHP-1	Auditor's Report – KW Resort Utilities Corporation
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Rebuttal

Castle	KWRU	ERC-5	Expansion Estimate
		ERC-6	Vacuum Tank Replacement Estimate
Johnson	KWRU	CAJ-8	Change Order for Vacuum Tank Replacement
		CAJ-9	Total Cost of Plant Expansion and Vacuum Tank Replacement
		CAJ-10	ERC List
		CAJ-11	E-Mail from Monroe County
Swain	KWRU	DDS-4	Selected Update Schedules from MFRs
		DDS-5	KWRU's Response to Audit Finding 1
		DDS-6	Schedules Supporting Equity

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

1. Plant in service should be reduced by \$817,240 based on the Staff Audit Finding 1.
2. Construction work in progress should be increased by \$303,099 for the December 31, 2014 Phase I test year based on the Staff Audit Finding 2.
3. Land should be decreased by \$923 and O&M expenses (contractual services-other) should be increased by \$1,200 for survey fees, and working capital should be increased by \$738 based on the Staff Audit Finding 3.

4. CIAC should be decreased by \$297,120, accumulated amortization of CIAC should be decreased by \$81,153, and test year amortization of CIAC should be decreased by \$14,003 based on Staff Audit Finding 4.
5. Accumulated depreciation should be increased by \$2,040 and depreciation expense should be decreased by \$5,489, based on Staff Audit Finding 5.
6. The wastewater collection system should be considered 100% used and useful.
7. The existing wastewater treatment plant should be considered 100% used and useful before the wastewater treatment plant expansion is placed into service.
8. Accounts receivable-other should be increased by \$40,067 and miscellaneous current and accrued assets should be decreased by \$13,422, based on Staff Audit Finding 7.
9. Test year revenues for 2014, for Phase I, if applicable, are as follows:

Residential and General Service	\$1,411,781
Reuse Revenues	\$50,400
Miscellaneous Revenues	<u>\$72,619</u>
Total	<u>\$1,534,799</u>
10. O&M expenses should be decreased by \$4,512, based on Staff Audit Finding 10 and \$6,276, based on Staff Audit Finding 11.
11. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:
  - a. \$25, if the face value does not exceed \$50,
  - b. \$30, if the face value exceeds \$50 but does not exceed \$300,
  - c. \$40, if the face value exceeds \$300,
  - d. Or five percent of the face amount of the check, whichever is greater.
12. KWRU should be authorized to collect a monthly lift station cleaning charge of \$1,462 from the Monroe County Detention Center.
13. In calculating the rates to be collected from service rates, the amount of revenues from reuse rates should be calculated using the final approved reuse rate.
14. The appropriate plant capacity charge should remain unchanged at \$2,700 per ERC.
15. The appropriate leverage formula to use is the leverage formula in effect when the Commission makes its final decision.
16. KWRU shall notify the Commission, within 90 days of the order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners Uniform System of Accounts associated with the Commission-approved adjustments.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending confidentiality matters at this time.

### XIII. POST-HEARING PROCEDURES

If no bench decision is made, each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of this Prehearing Order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 75 words, it must be reduced to no more than 75 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, F.A.C., a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than \_ pages and shall be filed at the same time.

### XIV. RULINGS

Opening statements, if any, shall not exceed 5 minutes per party.

KWRU's request to take Official Recognition of the Final Order of The Department of Environmental Protection in *Last Stand et al v. K W Resort Utilities Corp. et al*, OGC Case No. 14-0393, dated February 24, 2016 and filed in this matter on May 19, 2016 is hereby granted.

Harbor Shores filed a Notice of Intent to Use Depositions on Thursday, October 27, 2016. Harbor Shores has not adequately demonstrated how the specified portions of the deposition transcript will be used at the Hearing for purposes other than impeachment. Harbor Shores may use the deposition to cross-examine Utility witnesses for impeachment purposes during the Hearing subject to any appropriate objections. Therefore, Harbor Shores' request within its Notice of Intent to Use Deposition is denied.

On Friday, October 28, 2016, the OPC filed a Motion to Strike certain portions of the Utility's rebuttal testimony and exhibits. OPC's Motion is denied, as it appears that the matters addressed in the Utility's rebuttal are raised in the intervenors' testimony. I further note that rebuttal testimony and exhibits were filed on Monday, October 10, 2016, allowing all parties an opportunity to conduct discovery.

The Office of Public Counsel's Request for Oral Arguments on its Motion to Strike is also denied.

It is therefore,

ORDERED by Commissioner Jimmy Patronis, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner Jimmy Patronis, as Prehearing Officer, this 3rd day of November, 2016.



JIMMY PATRONIS  
Commissioner and Prehearing Officer  
Florida Public Service Commission  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

KRM

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.