

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the billing practices of
K W Resort Utilities Corp. in Monroe County.

DOCKET NO. 20170086-SU
ORDER NO. PSC-2018-0560-PCO-SU
ISSUED: November 26, 2018

ORDER GRANTING IN PART AND DENYING IN PART
MOTION FOR EXTENSION OF TIME

On August 31, 2018, the Commission issued Proposed Agency Action Order No. PSC-2018-0444-PAA-SU (PAA Order), requiring K W Resort Utilities Corp. (KWRU) to show cause why it should not be fined a penalty in the amount of \$10,000.00 for its violation of Sections 367.081(1) and 367.091(3), Florida Statutes (F.S.), and for KWRU to issue certain specified refunds to its customers, Safe Harbor Marina and Sunset Marina. On September 21, 2018, the Office of Public Counsel (OPC) filed a petition requesting an evidentiary hearing on the protested portions of the PAA Order (Petition). Subsequently, on October 1, 2018, KWRU filed a Motion to Dismiss, or in the Alternative to Strike, the Petition (Motion to Dismiss). Also, on that date, KWRU filed a cross-motion for a formal administrative hearing protesting the PAA Order.

On November 19, 2018, OPC filed a Motion for Partial Summary Final Order to the Protested Portions of the Proposed Agency Action and a Memorandum in Support of the Motion (OPC Motion). In its Motion, OPC asserts that because its protest of the PAA Order “hinges on a straightforward legal issue,” the resolution of that issue may be dispositive of OPC’s protest of the PAA Order. Thus, OPC is requesting a Summary Final Order on the Commission’s interpretation of Rule 25-30.350, Florida Administrative Code, as it relates to this case.

On November 21, 2018, KWRU filed a Motion for Extension of Time to file a response to OPC’s Motion (KWRU Motion) requesting an extension until seven days after the Commission rules on the Motion to Dismiss. In its Motion, KWRU contends that because OPC’s Motion was filed the Monday before the Thanksgiving holiday, it essentially only had two and one half business days to respond to OPC’s Motion. Further, KWRU asserts that until the Commission rules on its Motion to Dismiss, KWRU should not have to incur the time and expense of preparing a response to OPC’s Motion. KWRU represents that OPC does not object to an extension of time to a specific number of days, but OPC does not agree to an open-ended extension that is contingent on the Commission ruling on KWRU’s Motion to Dismiss.

Upon consideration of the foregoing, an extension of time in this docket is reasonable and appropriate. KWRU’s request that it have until after the Commission rules on its Motion to Dismiss to respond to OPC’s Motion is hereby denied; however, due to the Thanksgiving holiday, KWRU shall have until the close of business on November 29, 2018, to respond to OPC’s Motion.

Based upon the foregoing, it is

ORDERED by Commissioner Julie I. Brown as Prehearing Officer, that the Motion for Extension of Time filed by K W Resort Utilities Corporation is granted in part and denied in part as set forth herein. It is further

ORDERED that K W Resort Utilities Corporation's response to the Office of Public Counsel's Motion for Partial Summary Final Order to the Protested Portions of the Proposed Agency Action and a Memorandum in Support of the Motion, filed November 19, 2018, shall be filed by the close of business on November 29, 2018.

By ORDER of Commissioner Julie I. Brown, as Prehearing Officer, this 26th day of November, 2018.



JULIE I. BROWN
Commissioner and Prehearing Officer
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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.

KMS

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.