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From: Bronwyn Revell [BRevell@RSBattorneys.com]
Sent: Wednesday, September 24, 2008 12:13 PM
To: Filings@psc.state.fl.us; BURGESS.STEVE; Ralph Jaeger; John Wharton; Marty Deterding
Subject: Filing in Docket No. 070293-SU; Application for Increase in Wastewater Rates in Monroe County By KW Resort Utilities Corp
Attachments: Motion for Rule Waiver.pdf

- a. John L. Wharton
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- b. Docket No. 070293-SU; Application for increase in wastewater rates in Monroe County by KW Resort Utilities Corp.
- c. Filed on behalf of KW Resort Utilities Corp.
- d. Motion for Rule Waiver is 3 pages plus 1 page attachment
- e. One page attachment is newspaper article

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

**Docket No. 070293-SU
December 10, 2007**

KW RESORT UTILITIES' MOTION FOR RULE WAIVER

KW Resort Utilities ("KW") by and through its undersigned counsel, hereby files this Motion for Rule Waiver and would state as follows:

1. Rule 25-22.0407(7), Florida Administrative Code, requires that no less than 14 days and no less than 30 days prior to the date of the hearing there shall be publication in a newspaper of general circulation a notice of the date, time, location, and purpose of the hearing.
2. The hearing in this matter is set for October 1 and 2, 2008.
3. Publication as required by Rule did not occur until September 26, 2008.
4. A more detailed individual mailed notice to customers as required by Rule 25-22.0407(6)(b), Florida Administrative Code, was given pursuant to Rule.
5. The Florida Administrative Procedure Act provides that variances and waivers of rules shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by

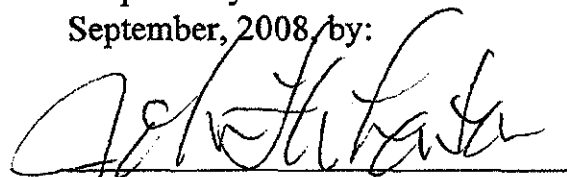
the person and when the application of a rule will create a substantial hardship. Section 120.542(2), Florida Statutes.

6. The Commission's purpose in requiring notice has been achieved in this case by and through individual mailed notice to all customers. Additionally, a newspaper article about the date and place of this hearing and its purpose appeared in a local newspaper of general publication, *The Key West Herald*, on September 15, 2008. Key West is a small community in both its geography and its population. The location, time and purpose of this hearing is clearly known among the KW customers.

7. Cancellation or delay of this hearing at this time could work a substantial hardship on the parties, the customers, or the Commission's staff.

WHEREFORE and in consideration of the above, KW respectfully requests that it be relieved of the obligation for additional publication as referenced hereinabove or, in the alternative, that the Commission deem that the spirit and intent of the Rule has been satisfied by the attached article.

Respectfully submitted this 24th day of
September, 2008, by:



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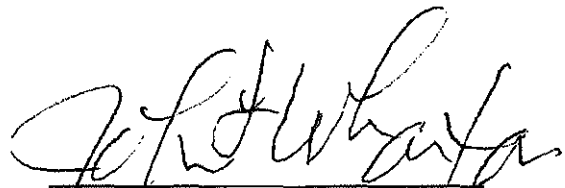
Counsel for KW Resort Utilities Corp.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to the following via electronic and U.S. Mail this 24th day of September, 2008:

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KWRESORT\070293-SU\motion for rule waiver

Sewer rates fraught with errors

By TIMOTHY O'HARA Citizen Staff

When KW Resort Utilities Corp. requested its Stock Island sewer customers pay more for the service, the utility owners probably did not imagine their request might wind up in a rate reduction.

The Office of Public Counsel, a state agency that represents the 1,500 customers, wants the utility to refund a 21 percent rate increase -- and the accompanying interest that's in an escrow account -- it was allowed to implement in October while it awaited a final decision on its request.

The agency argued that the utility is overcharging customers by \$425,000, counsel attorney Stephen Burgess said Friday. Burgess released the counsel's position last week and will explain it to ratepayers and get their input at a meeting Sept. 30 at the Key West Baptist Temple, 5727 Second Ave., on Stock Island.

That meeting comes a day before a Public Service Commission public hearing on the rate increase request at Old City Hall in Key West. Counsel attorneys and utility owners will testify before the commission, which eventually will decide whether to grant a rate increase, keep the current rate or reduce it.

An accountant working on behalf of the counsel has found many policies and procedures the utility implemented that led to "double charging or excessive billing," Burgess said.

The utility has virtually no employees of its own and the company's owner, Bill Smith, has hired other companies owned and/or operated by his family members to handle some of the utility's functions, which include inspections and service and maintenance of company-owned equipment.

The counsel found instances in which the ratepayers have paid for family members' cell phone bills and moving expenses. The counsel asked the utility to remove \$8,602 in moving expenses for Smith's son-in-law, Chris Johnson, who manages an affiliate company that conducts inspections, runs the operation of the plant and does other work for the utility.

Johnson's company, Keys Environmental Inc., marked up the cost of supplies by 30 percent and passed along the charges to ratepayers, the counsel charged. It also questioned some of the fees Keys Environmental Inc. charged for sewer connections. The company conducted hookup inspections and charged for services that already had been conducted by the private company that connected the sewer lines for residents, Burgess said.

The counsel also asked the utility to refund \$21,631 in travel expenses for Smith, as well as the cost to transport one of Smith's vehicles from Chicago to Key West. The counsel also found the utility used \$12,038 in ratepayer money for bonuses for Key West Golf Course employees. Smith also owns the Stock Island public golf course, and company spokesman Bill Barry said the two companies use some of the same employees, as part of a "cost-savings" arrangement.

The utility charges the lowest sewer rates and hookup fees in the county, Barry said in the company's defense. KW Resort Utilities' monthly fees are about \$40 a month less than what the Florida Keys Aqueduct Authority charges for service in Bay Point, Conch and Duck keys, Barry said.

The Public Service Commission approved an interim 21 percent rate increase after the utility requested a 58 percent rate increase. That equated to about \$8 a month per customer.

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