

ROSE, SUNDBSTROM & BENTLEY, P.A.  
2548 BLAIRSTONE PINES DRIVE  
TALLAHASSEE, FLORIDA 32301

(850) 877-6555  
FAX (850) 656-4029  
www.rsbatorneys.com

October 30, 2008

FREDERICK L. ASCHAUER, JR.  
CHRIS H. BENTLEY, P.A.  
ROBERT C. BRANNAN  
F. MARSHALL DETERDING  
JOHN R. JENKINS, P.A.  
KYLE L. KEMPER  
STEVEN T. MINDLIN, P.A.  
CHASITY H. O'STEEN  
WILLIAM E. SUNDBSTROM, P.A.  
DIANE D. TREMOR, P.A.  
JOHN L. WHARTON

ROBERT M. C. ROSE, (1924-2006)

Ann Cole, Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: K.W. Resort Utilities Corporation; PSC Docket No. 070293-SU  
Application for Increase in Wastewater Rates in Monroe County  
Our File No. 34000.05

Dear Ms. Cole:

I am writing this letter as a follow up to my conversations today with Steve Burgess of the Office of Public Counsel, with Ralph Jaeger of the Commission's legal staff, and my conversation with Mary Anne Helton of the Commission's legal staff, a few days ago. Based upon the assurances received from these individuals as to the position you will take on this issue, I am hereby withdrawing the Motion for Rule Waiver of KW Resort filed on September 24, 2008.

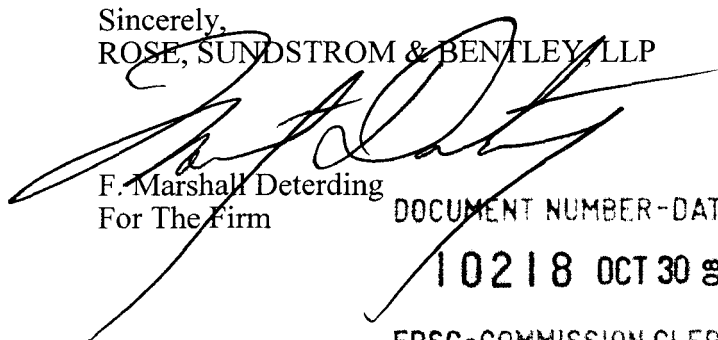
Mr. Burgess has assured me that OPC will not take the position that notice was inadequate, based upon the Utility's failure to publish a separate notice at least 14 days before the hearing, and will not raise that issue at the Commission on reconsideration or on appeal.

Mr. Jaeger and Ms. Helton have assured me that they will not raise that issue as affecting proper noticing and that they agree that the constructive notice was given by a series of newspaper articles published within the rule time frame that gave the location date and subject matter of the hearing. That notice along with the Utility's published notice, approximately five days before hearing, combined to ensure that there was constructive published notice in this case. The staff attorneys have assured me that they will maintain that position throughout any proceedings wherein that issue is raised by another. In addition, the customers timely received direct individual notice by mail.

Based upon the assurances from OPC counsel and staff counsel, I hereby withdraw our Motion for Rule Waiver.

- COM \_\_\_\_\_
- ECR \_\_\_\_\_
- GCL   1
- OPC \_\_\_\_\_
- RCP \_\_\_\_\_
- SSC \_\_\_\_\_
- SGA \_\_\_\_\_
- ADM   FMD/tms
- CLK \_\_\_\_\_

If either of you have any questions in this regard, please do not hesitate to contact me.

Sincerely,  
  
 F. Marshall Deterding  
 For The Firm

RECEIVED-FPSC  
08 OCT 30 AM 9:30  
COMMISSION CLERK

CENTRAL FLORIDA OFFICE  
SANLINDO CENTER  
2180 WEST STATE ROAD 434  
SUITE 2118  
LONGWOOD, FLORIDA 32779  
(407) 830-6331  
FAX (407) 830-8522

MARTIN S. FRIEDMAN, P.A.  
BRIAN J. STREET

CHRISTIAN W. MARCELLI, OF COUNSEL  
(LICENSED IN NEW YORK ONLY)

DOCUMENT NUMBER-DATE

10218 OCT 30 08

FPSC-COMMISSION CLERK

cc: Ralph Jaeger, Esquire  
Mary Anne Helton, Esquire  
Steve Burgess, Esquire