

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for amendment
of Certificate No. 168-S to
include additional territory in
Monroe County by K W Resort
Utilities Corp.

DOCKET NO. 981180-SU
ORDER NO. PSC-99-0480-FOF-SU
ISSUED: March 8, 1999

The following Commissioners participated in the disposition of
this matter:

JOE GARCIA, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER APPROVING APPLICATION TO AMEND CERTIFICATE NO. 168-S TO
INCLUDE ADDITIONAL TERRITORY AND CLOSING DOCKET

BY THE COMMISSION:

BACKGROUND

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

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

Pursuant to a Memorandum of Understanding between the Public Service Commission (PSC) and the Department of Community Affairs (DCA), we provided the DCA with a copy of K W Resort's application. On November 23, 1998, the DCA provided comments as to the need for service in the requested territory and compliance with the local

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comprehensive plan. The utility responded to the DCA's comments on December 9, 1998.

APPLICATION

The application is in compliance with Section 367.045, Florida Statutes, and other pertinent statutes and provisions of the Florida Administrative Code. The application contained the correct filing fee pursuant to Rule 25-30.020, Florida Administrative Code.

Adequate service territory and system maps and a territory description were provided pursuant to Rules 25-30.036(3)(e), (f), and (i), Florida Administrative Code. Descriptions of the utility's current territory and proposed expansion of territory are in Attachments A and B of this Order, which by reference are incorporated herein. Attachment A is the utility's current territory description and Attachment B is the composite territory description, including the proposed area of expansion and the territory granted pursuant to Order No. 6803, in Docket No. 750149-S and Order No. 12618, in Docket No. 830390-S.

Pursuant to Rule 25-30.030, Florida Administrative Code, the utility furnished proof of compliance with the noticing requirements. No objections to the notice of the application were received, and the time for filing such has expired.

The utility has the treatment and disposal capacity necessary to provide service to both the proposed area of expansion and its current territory. Additionally, any funds that are required will be provided by a combination of debt, equity, and/or contributions-in-aid-of-construction. The utility indicated that there is some urgency in the approval of the amendment application because the utility wants to take advantage of ongoing roadwork that will substantially reduce the cost of installing collection lines.

As for the utility's technical ability to provide service, K W Resort has retained Mr. Ed Castell, a Class B Wastewater Treatment Operator, and Mr. R. Jeff Weiler, P.E., of the Weiler Engineering Corporation, who has been the engineer of record for five years. The utility's wastewater facilities have capacities of .499 million gallons per day (mgd), with one of the utility's wastewater treatment plants having a .250 mgd capacity and the other having a .249 mgd capacity. The current average daily flows for 1998 at the wastewater treatment plant were slightly less than .200 mgd. The utility stated that the expansion of its service area will allow

the utility to more fully utilize its existing wastewater capacities.

The utility's effluent is disposed of through a combination of spray irrigation provided to the Key West County Club (Golf Club) and six injection wells. The wastewater plant is in compliance with all applicable standards set by the Florida Department of Environmental Protection (DEP). According to the DEP, the wastewater treatment plant produces good quality effluent.

The utility has submitted an affidavit, pursuant to Section 367.045(2)(d), Florida Statutes, stating that it has tariffs and annual reports on file with the Commission. The utility has also filed revised tariff sheets incorporating the additional territory into its tariff and returned its certificate for amendment.

DCA'S COMMENTS

As previously stated, the DCA submitted comments regarding K W Resort's application pursuant to a Memorandum of Understanding between the DCA and the PSC. In its comments, the DCA stated that the Monroe County Comprehensive Plan requires advanced wastewater treatment (AWT), unless the secondary effluent is reused rather than discharged through a bore hole or other means. The DCA stated that the proposed expansion will comply with the Monroe County Plan if reuse is required at the time of permitting and recommended that the PSC require reuse as a condition for approval of the application.

In its response to the DCA's comments on reuse, K W Resort stated that spray irrigation provided to the Golf Club has been the utility's primary method of effluent disposal for many years and that the utility is disposing of well over ninety percent of its effluent to the Golf Club. Moreover, the utility stated that it only used its backup injection wells twenty-one days out of the last year. Furthermore, while the utility is currently providing the Golf Club with slightly less than 200,000 gallons of average daily flow of effluent, K W Resort stated that the Golf Club indicated that it could use almost one million gallons a day of spray effluent.

With respect to the DCA's comments on AWT, the utility responded that it is currently operating within all permit requirements and has a valid permit recently issued from the DEP. Moreover, the utility stated that although the permit rates the

treatment and disposal facilities at 500,000 gallons per day, the utility's current average daily flow is only 196,000 gallons per day, which is less than 50 percent of capacity under its existing permit. The utility acknowledged that it will eventually have to increase the size of its treatment facility, which may cause a need for AWT, alternative methods of wet weather storage, or alternatives to disposal other than the existing injection wells. The utility stated that it will continue to work with both Monroe County and the DEP to resolve these issues as the need for additional capacity arises in the next few years.

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

We find that the information provided by the utility addresses the DCA comments. The utility is using the Golf Club as a disposal site for effluent; the utility is operating within the DEP's standards for reuse; and there are no regulatory demands at this time that require the utility to upgrade its plant to AWT for the purpose of this amendment application. At the time AWT becomes an issue, it will probably necessitate a rate case by the utility because it will require additional capital costs and higher operational costs.

Although the DCA requests that we require reuse as a condition for approval of the application, we are not the agency with primacy and do not have the authority to require reuse as a condition for operating the wastewater treatment plant. Also, as stated above, the utility is in compliance with all DEP standards and appears to be using reuse to the maximum extent possible.

Pursuant to Section 367.045, Florida Statutes, and Rule 25-30.036, Florida Administrative Code, the amendment application of K W Resort, to include the territory described in Attachment A and the composite territory described in Attachment B, is hereby approved.

RATES AND CHARGES

K W Resort's current rates were effective on September 26, 1998, pursuant to WS-98-0198, a price index. The utility's rates were set in Order No. 14620, issued July 23, 1995, in Docket No. 830388-SU, and its service availability charges were effective pursuant to Order No. 14756, issued August 22, 1985, in Docket No. 850370-SU. According to K W Resort's 1997 annual report, the current charges are \$2,700 and a typical residential bill is approximately \$33.86. K W Resort shall charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding.

No further action is required, and this docket shall be closed.

Based on the foregoing, it is

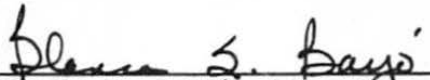
ORDERED by the Florida Public Service Commission that K W Resort Utilities Corp.'s application to amend Certificate No. 168-S to include additional territory is approved. It is further

ORDERED that Certificate No. 168-S, held by K W Resort Utilities Corp., is hereby amended to include the territory described in Attachments A and B of this Order. It is further

ORDERED that K W Resort Utilities Corp. shall charge the customers in the territory added herein the rates and charges contained in its tariff until authorized to change by this Commission in a subsequent proceeding. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 8th day of March, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of Records and reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

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ATTACHMENT A

K W RESORT UTILITIES CORP.

MONROE COUNTY

WASTEWATER SERVICE AREA

NEW AMENDMENT AREA

Township 67 South, Range 25 East
Section 35

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

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ATTACHMENT B

K W RESORT UTILITIES CORP.

MONROE COUNTY

WASTEWATER SERVICE AREA

COMPOSITE SERVICE AREA

Township 67 South, Range 25 East
Section 35

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

Township 67 South, Range 25 East
Sections 26 and 35

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