



Public Service Commission

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COMMISSION CLERK

DATE: JULY 25, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (HARRIS) *zph mart*
DIVISION OF ECONOMIC REGULATION (RENDELL) *1 JDS 100*

RE: DOCKET NO. 020520-SU - COMPLAINT BY SAFE HARBOR MARINA
AGAINST K. W. RESORT UTILITIES CORP. AND REQUEST FOR NEW
CLASS OF SERVICE FOR BULK WASTEWATER RATE IN MONROE
COUNTY.
COUNTY: MONROE

AGENDA: 08/06/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\020520.RCM

CASE BACKGROUND

On September 26, 2001, Safe Harbor Marina (Safe Harbor) filed a letter with the Division of Consumer Affairs concerning the billing practices of K. W. Resort Utilities Corporation (K. W. Resort). Safe Harbor indicated that in 1990 it paid a \$10,000 impact fee to K. W. Resort to convert one of its septic tank systems into a lift station. The complainant further indicates that prior to the current owners of the utility purchasing the utility, it was billed on a gallonage rate for wastewater through an "hour meter." When Safe Harbor decided to add another lift station and install a boat "pump-out" system, K. W. Resort required the marina to enter into a service contract.

The Contract for Wastewater Service indicated that

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All residential units including the 8 apartments, 2 trailerhomes and 2 R.V.'s and any other residential units on the property, including, approximately 34 residential, houseboat or sailboat totaling 46 units shall be billed at the month residential flat rate currently approved by the PSC which is \$34.25 per apartment per month and which may change based upon PSC approval. (sic)

Further, Safe Harbor is also billed a \$45.00 flat rate for the unmetered bar/restaurant. In its complaint, Safe Harbor indicated that it should be billed under the utility's current tariff for Private Lift Station Owners, Wastewater Tariff Sheet 15.0, since it owns and maintains two lift stations on its property.

After staff's preliminary investigation and conclusions, the two parties requested that staff travel to the area to conduct an on-site analysis and meet to discuss possible settlement alternatives. Staff met with the two parties on June 11, 2002, and worked out a settlement agreement. This recommendation addresses the settlement proposal of the two parties. The Commission has jurisdiction pursuant to Section 367.121, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission approve the proposed settlement and the new class of service for bulk wastewater service for Safe Harbor Marina?

RECOMMENDATION: Yes. The Commission should approve the proposed settlement and the new class of service for bulk wastewater service for Safe Harbor Marina. Further, Wastewater Original Tariff Sheet 15.5 should be approved. The approved charges should be effective on the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code. (RENDELL, HARRIS)

STAFF ANALYSIS: The Contract for Wastewater Treatment signed on August 31, 1999 indicates that Safe Harbor would consist of (1) a bar and restaurant of 26 seats; (2) 8 residential apartments; (3) 5,550 square feet of storage facilities; (4) 3,850 square feet of commercial retail space; (5) boat slips with 34 permanent residential live aboard boats; and (6) 2 trailer homes plus 2 R.V.'s. The contract further indicates that Safe Harbor would install, maintain, and operate the wastewater collection lines, pipes, manholes and lift stations required to connect to the utility's wastewater system. Additionally, Safe Harbor was required to pay \$43,068.29 in plant capacity charges, based upon \$2,700 per equivalent residential connection (ERC).

Further, the Contract for Wastewater Service indicated that:

All residential units including the 8 apartments, 2 trailerhomes and 2 R.V.'s and any other residential units on the property, including, approximately 34 residential, houseboat or sailboat totaling 46 units shall be billed at the month residential flat rate currently approved by the PSC which is \$34.25 per apartment per month and which may change based upon PSC approval. (sic)

Safe Harbor is also billed a \$45.00 flat rate for the unmetered bar/restaurant. Staff has reviewed the approved wastewater tariffs, as well as past Commission orders, and has determined that this \$45 monthly flat rate for this general service has not been approved by the Commission. In its complaint, Safe Harbor indicated that it should be billed under the utility's current tariff for Private Lift Station Owners, Wastewater Tariff

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Sheet 15.0, since it owns and maintains two lift stations on its property.

The complaint was reassigned to the Division of Economic Regulation on November 13, 2001. Staff sent a data request to both Safe Harbor and K. W. Resort on November 28, 2001. Safe Harbor provided a response by letter dated December 17, 2001, while K. W. Resort provided a response by letter dated January 2, 2002. Based upon the original complaint, the utility's response to the original complaint, and both responses to staff's data requests, staff submitted its preliminary findings in a letter to both parties dated February 7, 2002. In this letter, staff determined that K. W. Resort was billing discriminatory rates to Safe Harbor.

Section 367.081(2)(a)1, Florida Statutes states, "[t]he Commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory, and not unfairly discriminatory." Staff based its determination of discriminatory billing practices upon the fact that Safe Harbor owns its own lift stations; however the utility was billing under the residential rate. In Order No. 13862, issued November 19, 1984, in Docket No. 830388-S, this utility's last rate case, the Commission determined that private lift station (PLS) customers are charged the same base facility charge as other service classes, but are charged 80% of the other service classes' gallonage charge to recognize reduced costs of service to PLS owners. The reduced cost of service stems from the PLS owners paying for their own electrical pumping power and maintenance of the lift station. Staff acknowledges that this Order was protested; however, a subsequent settlement was approved by Order No. 14620, issued July 23, 1985, for this utility. In the stipulation, the Privately Owned Lift Station Rates were approved with the same reduced gallonage charge. Further, the stipulation indicated that the flat rate would be used for the residential class of customers.

In the February 7, 2002 letter, staff offered alternatives for the billing of Safe Harbor by K. W. Resort. In response to staff's letter, both parties submitted a request for staff to conduct an on-site investigation and to discuss possible settlement alternatives. On June 10, 2002, staff conducted a review of the service territory with K. W. Resort, including both Safe Harbor Marina and Sunset Ventures Marina. Staff also met with Mr. Joe O'Connell, owner of Safe Harbor and conducted an extensive review of the entire marina. On June 11, 2002, staff met with Safe Harbor

and K. W. Resort and conducted an informal settlement conference. Based upon these discussions with staff, the parties worked out a settlement agreement. This settlement proposal includes a new class of service for a bulk wastewater rate for Safe Harbor. This monthly rate is based upon the following:

Wastewater Bulk Rate

13 residential living units at 1 ERC each (apartments, Mobile Homes, House Boats with apartments)	\$ 458.51
18 Live Aboard Boats at .6 ERC each	\$ 380.92
27 Non Live Aboard Boats at 1/5 ERC each	\$ 190.46
6 vacant slips at 1/5 ERC each	\$ 42.32
2 Bathhouses at 1 ERC each	\$ 70.54
2 Commercial Businesses at 1/2 ERC each	\$ 35.27
1 Commercial Bar	<u>\$ 45.00</u>
Total Bulk Rate	<u>\$1,223.02</u>

Past Commission practice has been to establish a bulk service rate only after it is determined that the class of service is truly unique and is not similar to other existing classes of service served by the utility. The Commission has historically approved bulk service charges that recognizes differences in cost and minimizes any form of cross subsidization among or between the various classes served by the utility. See Order No. PSC-95-0730-FOF-WS, in Docket No. 950186-WS, issued June 20, 1995. Staff believes that the circumstances involved with providing wastewater service to Safe Harbor justify the need for a bulk wastewater service rate. The Safe Harbor customer is unique in that, not only does the customer own, operate, and maintain its own lift stations, but also consists of a multi-use customer base. This customer base consists of residential units, boat slips, commercial units, and bathhouses.

Staff believes that this wastewater bulk rate is just, reasonable, compensatory, and not unfairly discriminatory. This rate recognizes the differences with this wastewater customer, as well as minimizes any form of cross subsidization among or between

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the various classes served by the utility. Section 367.091(5), Florida Statutes, provides that the utility may furnish a new class of service, if not previously approved, and fix and charge just, reasonable, and compensatory rates. Further the Commission may approve such rates or may approve such other rates for the new class of service which it finds are just, reasonable, and compensatory.

The utility has begun charging Safe Harbor this new class of service beginning in June, 2002 in accordance with Section 367.091(5), Florida Statutes. Staff recommends that the Commission approve the proposed settlement and the new class of service for bulk wastewater service for Safe Harbor Marina. Further, Wastewater Original Tariff Sheet 15.5 should be approved. The approved charges should be effective on the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, Florida Administrative Code.

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ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes, this docket should be closed upon the issuance of the Consummating Order if no person, whose interests are substantially affected by the proposed actions, files a protest with the 21 day protest period. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with the bulk service rate held subject to refund pending resolution of the protest, and the docket should remain open. (RENDELL, HARRIS)

STAFF ANALYSIS: Because no further action is necessary, upon expiration of the protest period, this docket should be closed upon the issuance of the Consummating Order, if no person, whose interests are substantially affected by the proposed actions files a protest within the 21 day protest period. If a protest is filed within 21 days of the issuance date of the Order, the tariff should remain in effect with the bulk service rate held subject to refund pending resolution of the protest, and the docket should remain open.