

REDACTED

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

Filed: December 17, 2007

DIRECT TESTIMONY

OF

KIMBERLY H. DISMUKES

ON BEHALF OF
OFFICE OF PUBLIC COUNSEL

CMP _____
COM 3
CTR 1
ECR _____
GCL 1
OPC _____
RCA _____
SCR _____
SGA _____
SEC _____
OTH _____

Respectfully Submitted,

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1 **I. Introduction**

2
3 **Q. WHAT IS YOUR NAME AND ADDRESS?**

4 A. Kimberly H. Dismukes, 6455 Overton Street, Baton Rouge, Louisiana 70808.

5 **Q. BY WHOM AND IN WHAT CAPACITY ARE YOU EMPLOYED?**

6 A. I am a partner in the firm of Acadian Consulting Group, which specializes in the
7 field of public utility regulation. I have been retained by the Office of the Public
8 Counsel ("OPC") on behalf of the Citizens of the State of Florida to analyze the
9 application of KW Resort Utilities, Corp. ("KWRU" or the "Company" or the
10 "Utility") for increased rates for its wastewater system in Monroe County, Florida
11 ("County").

12 **Q. DO YOU HAVE AN APPENDIX THAT DESCRIBES YOUR**
13 **QUALIFICATIONS IN REGULATION?**

14 A. Yes. Appendix I, attached to my testimony, was prepared for this purpose.

15 **Q. DO YOU HAVE AN EXHIBIT IN SUPPORT OF YOUR TESTIMONY?**

16 A. Yes. Exhibit No. KHD-1 contains 16 schedules that support my testimony.

17 **Q. HOW IS YOUR TESTIMONY ORGANIZED?**

18 A. My testimony is organized into 10 sections. Section one is an introduction.
19 Section two summarizes my recommendations. The background of the proceeding
20 is discussed in section three, followed by an examination of the Company's
21 affiliates in section four. Section five addresses the Company's agreements and
22 transactions with Monroe County, Florida. Section six discusses adjustments to
23 rate base. My recommended adjustments to the Utility's revenue and expenses are

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1 detailed in sections seven and eight, respectively. In section nine I discuss the
2 Florida Public Service Commission ("FPSC") Staff's audit adjustments. Finally,
3 in section ten I present the revenue requirement resulting from the adjustments
4 that have been proposed by the Citizens' witnesses thus far in this proceeding.

5 **Q. WHO ARE THE WITNESSES FOR THE OPC IN THIS PROCEEDING?**

6 A. The Citizens are sponsoring two witnesses. I am testifying on revenue
7 requirement issues. Mr. Andrew Woodcock is testifying on engineering issues.

8 **II. Summary of Recommendations**

9
10 **Q. WOULD YOU PLEASE SUMMARIZE YOUR RECOMMENDATIONS?**

11 A. Yes. Schedule 1 of my exhibit sets forth each of the adjustments that I
12 recommend. As shown on this Schedule, the revenue requirement impact of
13 these adjustments produces a rate reduction of \$827,062. This compares to the
14 Company's requested rate increase of \$601,684.

15 My analysis indicates that the Company's expenses are overstated due in
16 part to its relationship with its affiliates, inappropriate marks-ups for direct costs
17 from affiliates, the overstatement of costs associated with the upgrade to
18 Advanced Wastewater Treatment (AWT) at the South Stock Island facility,
19 excessive travel charges from the owner of the Utility, inclusion of inappropriate
20 public relations expenses and the inclusion of abnormally high expenses in the
21 test year.

22 My examination also shows that the Company's rate base is overstated
23 due to inappropriate charges to the South Stock Island facility and the AWT plant

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1 related to unsupported and undocumented payments to affiliates of the Utility. In
2 addition, Mr. Woodcock has found the Company's treatment facilities to be only
3 72.14% used and useful.

4 Test year revenue is understated because the Company failed to include
5 revenue related to services provided to Monroe County and it understated rent
6 revenue.

7 **III. Overview of Company Filing**

8
9 **Q. WOULD YOU PLEASE PROVIDE A BRIEF SUMMARY OF THE**
10 **PROPOSED RATE INCREASE IN THIS PROCEEDING?**

11 A. KWRU is a Class A Utility providing wastewater service to approximately 1,556
12 customers in Key West, Florida. In the instant application the Company proposes
13 to increase wastewater revenue by \$601,684, representing an increase of 58%.

14 According to the Company, KWRU has not sought full rate relief since
15 1985. However, they have availed themselves of the Commission's pass-through
16 and indexing increases. The Company's proposed test year is the historic year
17 ending December 2006.

18 **Q. WHAT DOES THE COMPANY CLAIM ARE THE REASONS FOR THE**
19 **REQUESTED RATE INCREASE?**

20 A. KWRU claims that its rate request is driven largely by four issues as detailed in
21 Mr. Smith's pre-filed direct testimony.

22 First, KWRU recently resleeved their collection lines because of
23 substantial infiltration. The Company claims the degradation had impacted the

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1 ability to properly treat effluent and utilize the treated effluent for reuse purposes.
2 According to the Company, the project was completed in early 2007 at a cost of
3 approximately \$600,000.¹

4 Second, the Company also began a project to refurbish the wastewater
5 treatment plant because of the deterioration caused by the salt content in its
6 environment. Construction began in 2006 and was slated to be completed by
7 October 1, 2007.²

8 Third, the Company is also converting its facilities to Advanced Waste
9 Treatment (AWT) at the request of Monroe County. The County has required all
10 utilities operating in the Keys to convert to an AWT facility by 2010. The
11 Company explains that the County has specifically requested it to convert prior to
12 the 2010 deadline and has advanced it \$707,000 to complete the project before
13 2010. Since much of the effort to convert to an AWT facility would be duplicated
14 in the projects already undertaken, KWRU decided to undertake the conversion
15 now.³

16 Fourth, the Company claims that increased operational costs, including
17 significant staffing changes, will result from the change to AWT causing the need
18 for additional revenue. The Company estimates the increased operating costs will
19 amount to approximately \$288,625 per year.⁴

20

¹ Smith Testimony, p. 3.

² Ibid., pp. 3-4.

³ Ibid., p. 4-5.

⁴ Ibid., p. 6.

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1 Q. IS THE COMPANY PROPOSING ANY CHANGES TO ITS RATE
2 STRUCTURE?

3 A. Yes. KWRU requests to change its rate structure from a flat rate to a base facility
4 charge and gallonage charge structure. The Company has been utilizing a flat rate
5 charge for sewer service because it has been difficult to obtain water usage
6 information from the water service provider Florida Keys Aqueduct Authority
7 (“FKAA”). However, recently the Company has confirmed it will be able to
8 obtain the necessary information to charge consumers using a base facility charge
9 and a gallonage charge.⁵

10 **IV. Affiliate Transactions**

11
12 Q. WHY IS IT IMPORTANT TO CLOSELY EXAMINE AFFILIATE
13 TRANSACTIONS?

14 A. In a situation involving the provision of services between affiliated companies,
15 the associated transactions and costs do not represent arms-length dealings. Cost
16 allocation techniques and methods of charging affiliates should be frequently
17 reviewed and analyzed to ensure that the company’s regulated operations are not
18 subsidizing the non-regulated operations. Because of the affiliation between
19 KWRU and the affiliates that contribute to most of the expenses included on the
20 books of KWRU, the arms-length bargaining of a normal competitive
21 environment is not present in their transactions. Although each of the affiliated
22 companies is supposedly separate, relationships between KWRU and its affiliates

⁵ Ibid.

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1 are extremely close—all have common owners or are related by family members.

2 In the absence of regulation, there is no assurance that affiliate
3 transactions and allocations will not translate into unnecessarily high charges for
4 KWRU's customers. Even when the methodologies for pricing have been
5 explicitly stated, close scrutiny of affiliate relationships is still warranted.
6 Regardless of whether or not the Utility explicitly establishes a methodology for
7 the allocation and distribution of affiliate costs, there is an incentive to
8 misallocate or shift costs to regulated companies so that the unregulated
9 companies can reap the benefits.

10 **Q. DOES THE COMMISSION HAVE ANY GUIDELINES WHICH**
11 **CONTROL THE PRICING ARRANGEMENTS BETWEEN UTILITIES**
12 **AND THEIR AFFILIATES?**

13 A. Yes. The Commission has expressed its opinion on affiliate transactions and the
14 precedent that should be followed when examining affiliate transactions.

15 By their very nature, related party transactions require closer
16 scrutiny. Although a transaction between related parties is not per
17 se unreasonable, it is the utility's burden to prove that its costs are
18 reasonable. Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191
19 (Fla. 1982). This burden is even greater when the transaction is
20 between related parties. In GTE Florida, Inc. v. Deason, 642 So.
21 2d 545 (Fla. 1994) (GTE), the Court established that the standard
22 to use in evaluating affiliate transactions is whether those
23 transactions exceed the going market rate or are otherwise
24 inherently unfair.⁶

⁶ In re: Investigation of rates of Aloha Utilities, Inc. in Pasco County for possible overearnings for the Aloha Gardens water and wastewater systems and the Seven Springs water system; Order No. PSC-01-1374-PAA-WS; Issued: June 27, 2001.

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1 Q. HAS THE COMPANY PRESENTED ANY TESTIMONY OR ANALYSIS
2 TO SHOW THAT THE CHARGES FROM ITS AFFILIATES ARE
3 CONSISTENT WITH THE GOING MARKET RATE?

4 A. No, it has not.

5 Q. WOULD YOU PLEASE DESCRIBE THE OWNERSHIP OF KWRU?

6 A. Yes. An organizational chart of the Company and its affiliates is shown on Schedule
7 2 of my exhibit. As shown on Schedule 2 and explained in response to Citizens'
8 Interrogatory 29: "WS Utility is the sole shareholder of KWRU." WS Utility, Inc.,
9 holds the financing note of KWRU, and is owned by Mr. William L Smith, Jr.,⁷
10 (70%), his daughter Mrs. Leslie Johnson (10%), and his sons Messrs. Barton
11 Smith (10%) and Alexander Smith (10%).⁸

12 Q. WOULD YOU PLEASE PRESENT ALL BUSINESS INTERESTS AND
13 AFFILIATE RELATIONSHIPS OF MR. WILLIAM SMITH, JR?

14 A. Yes. Mr. Smith owns several businesses. According to the Company's response to
15 Citizens' Interrogatory 28, Mr. Smith is "an owner, partner, employee, stock
16 holder, officer, director, secretary or treasurer" in each of the following
17 companies. In addition, other companies are listed below where a family member
18 is an owner and that company provides services to the Utility.

- 19 • KW Resort Utility Corporation (owned 100% by WS Utility, Inc.)
- 20 • WS Utility, Inc. (70% ownership)
- 21 • Green Fairways (100% ownership)
- 22 • Key West Golf Club (Owned 78% by Gwen Smith, Mr. Smith's wife)
- 23 • Keys Environmental, Inc. (100% owned by Chris Johnson, Mr. Smith's

⁷ Throughout this testimony, reference to Mr. Smith, Mr. William Smith, and Mr. William L. Smith, Jr., all refer to the same person—the owner of the Utility.

⁸ Responses to Citizens' Interrogatories 7 and 29.

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- 1 son-in-law)
- 2 • Johnson Constructors (50% owned by Chris Johnson, son-in-law of Mr.
- 3 Smith)
- 4 • Smith, Hemmesch & Burke (partner)
- 5 • Benicia Partners, LLC (20.5% ownership)
- 6 • 900 Commerce (83%)
- 7 • Courtland Court (50% ownership)
- 8 • Smith & Kreisler (50% ownership)
- 9 • Antioch Golf, LLC (10% ownership)
- 10 • Rail Golf, LLC (65% ownership)
- 11 • Deer Creek Golf, LLC (75% ownership)
- 12 • Gulf County Land, LLC (33% ownership)
- 13 • Norcor Tradewinds, LLC (1% ownership)
- 14 • Norcor Caldwell, LLC (1% ownership)⁹

15 According to the Company, Green Fairways, Inc. (“Green Fairways”)

16 provides management, construction and financing services for Deer Creek Golf

17 LLC, The Rail Golf LLC, Key West Golf Club, Benicia Partners LLC, Cortland

18 Court Partnership, 900 Commerce Partnership, and KW Resort Utilities, Corp.

19 Green Fairways has no ownership in any of these companies, but Mr. Smith

20 does.¹⁰

21

22 **Q. DO ANY OF THE ABOVE COMPANIES PROVIDE SERVICES TO**

23 **KWRU?**

24 **A.** Yes. According to the agreement between Green Fairways, Inc. and the Company,

25 Green Fairways owned 100% by Mr. Smith, provides “management, construction

26 and financing services” to KWRU.¹¹ Mr. Smith is also a partner and attorney for

27 the law firm Smith, Hemmesch & Burke, which sometimes provides legal

⁹ Response to Citizens’ Interrogatory 28, 29, and 76.

¹⁰ Response to Citizens’ Interrogatory 7.

¹¹ Ibid.

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1 services to the Utility.¹² In addition, Mr. Smith has an 83% ownership interest in
2 900 Commerce, from which the Utility purchased a generator in 2005.¹³ Key
3 West Golf Club (“KWGC”), 78% of which is owned by Mrs. Smith, provides
4 administrative services to the Company. Keys Environmental, Inc. (“Keys
5 Environmental” or “KEI”) provides operations, maintenance, and repair services
6 to the Utility and is owned by Mr. Chris Johnson (Mr. Smith’s son-in-law).

7 **Q. ARE THE TRANSACTIONS BETWEEN THE COMPANY AND THESE**
8 **AFFILIATES SIGNIFICANT?**

9 A. Yes. There are substantial transactions between the Company and its affiliates.
10 The Utility has no employees. All functions associated with operating and
11 managing it are performed by these affiliates—primarily KWGC and KEI. The
12 table below depicts the charges to the Utility by each of these companies during
13 the last three years.

KWRU Affiliate Charges			
Affiliate	2004	2005	2006
Green Fairways	\$ 86,000	\$ 95,167	\$ 66,000
Key West Golf Club	71,140	120,802	120,437
Smith, Hemmesch, & Burke	19,748	-	-
Keys Environmental, Inc.	330,003	630,643	615,756
Johnson Constructors			100,496
Total	\$506,891	\$ 846,612	\$ 902,689

14

¹² Response to Citizen’s Interrogatory 28.

¹³ Responses to Citizen’s Interrogatories 2 and 28.

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1 In addition to these charges, the table below reflects the amounts paid to
2 Green Fairways and Smith, Hemmesch, & Burke for construction management in
3 prior years.

Construction Management	Amount
Green Fairways Detention Center Mgmt Fee	\$ 32,198
Green Fairways SSI Project Mgmt Fee	75,000
Green Fairways SSI Project Mgmt Fee	226,180
Green Fairways SSI Project Mgmt Fee	11,281
Smith, Hemmesch, & Burke Legal Fee	25,000
Green Fairways AWT Mgmt Fee	111,375
Total	\$ 481,034

5
6 **Q. LET’S DISCUSS EACH OF THESE COMPANIES SEPARATELY. WHAT**
7 **PRODUCTS OR SERVICES ARE PROVIDED BY GREEN FAIRWAYS**
8 **TO THE COMPANY?**

9 A. Green Fairways provides management services to the Company. It also provides
10 management services to several other companies. In connection with the
11 construction of the South Stock Island Project and the connection for the
12 Detention Center, Green Fairways was paid to perform construction management
13 services.

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1

2 **Q. WHAT COMPANIES DOES GREEN FAIRWAYS MANAGE BESIDES**
3 **THE COMPANY?**

4 A. According to the Company's response to Citizens' interrogatories and the Staff
5 Audit, Green Fairways provides services to the following companies.

6 Deer Creek Golf LLC
7 Venetian Partners
8 The Rail Golf LLC
9 Key West Golf Club
10 Benicia Partners LLC
11 Portland Court
12 Cortland Court Partnership
13 900 Commerce Partnership^{14,15}
14

15 There are three employees of Green Fairways that assist in performing the
16 management services for these companies. According to the Staff Audit, one
17 person runs the golf courses, including Key West Golf Club, another person runs
18 the office buildings, and Mr. Smith oversees all businesses.¹⁶

19 **Q. WHAT PRODUCTS OR SERVICES ARE PROVIDED BY SMITH,**
20 **HEMMESCH & BURKE?**

21 A. This is a law firm operating in Illinois that charged the Company \$25,000 in 2002
22 in connection with negotiating contracts for construction of the South Stock
23 Island Project.
24

¹⁴ Response to Citizens' Interrogatory 7.

¹⁵ Staff Audit, p. 8.

¹⁶ Ibid.

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1 Q. WHAT PRODUCTS OR SERVICES ARE PROVIDED BY 900
2 COMMERCE?

3 A. In 2006, 900 Commerce sold the Company a generator for \$75,000. It does not
4 appear that any services are provided to KWRU by this company.

5 Q WHY DID THE COMPANY PURCHASE A GENERATOR FROM 900
6 COMMERCE?

7 A. According to the Company's response to Citizens' Interrogatory 2, the Company
8 purchased a Kohler 750 KW generator from 900 Commerce on December 16,
9 2005, and it sold a 150 KW Caterpillar generator for \$15,000 on July 31, 2006, to
10 Key West Golf Club. The invoice for the 750 KW generator is reflected on
11 Schedule 3. Also, as shown on this schedule, the Company's 2006 Annual Report
12 shows that the Company sold a generator to KWGC for \$15,000 and the book
13 value of the generator was \$25,500, for a loss of \$10,500. However, when asked
14 about this in discovery the Company responded: 11/20/07 Supplement: "The
15 Company's Annual Report does not report a loss on the disposal of the generator
16 on its Income Statement."¹⁷ While there may be no loss shown on the income
17 statement, the Annual Report does in fact show that the asset was sold to an
18 affiliate at less than book value. In response to Interrogatory 42, the Company
19 explained why the generator was sold to KWCG:

20
21 KWRU could no longer use its 200 KW generator to run our
22 expanded vacuum system because it was inadequately powered.

¹⁷ Response to Citizens' Interrogatory 42.

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1 KWGC purchased this generator at a fair market value of \$15,000
2 to run its re-use irrigation system.¹⁸
3

4 The Company explained the accounting entries were as follows:
5

6 Investment: A decrease to plant in service of \$30,000; a decrease
7 in accumulated depreciation of \$30,000; an increase in
8 accumulated depreciation of \$15,000. This results in a net
9 reduction to rate base of \$15,000.¹⁹
10

11 **Q. WHAT DO YOU RECOMMEND WITH RESPECT TO THE**
12 **TREATMENT OF THE SALE AND PURCHASE OF THESE**
13 **GENERATORS?**

14 A. I recommend that the Commission treat the sale of the generator to KWGC as if it
15 was sold at net book value. This ensures that ratepayers are not harmed by the
16 affiliate transaction. Therefore, accumulated depreciation should be increased by
17 \$10,500.

18 **Q. WHAT PRODUCTS OR SERVICES HAVE BEEN PROVIDED TO THE**
19 **UTILITY BY JOHNSON CONSTRUCTORS?**

20 A. Johnson Constructors provided construction services to the Utility in 2006 when
21 it permitted and constructed the clarifier at the AWT project.²⁰ Mr. Chris Johnson
22 owns 50% of Johnson Constructors with his father Mr. Jim Johnson who owns
23 50%.²¹ According to the Company, “[o]n October 27, 2006 KWRU paid
24 \$34,408.80 directly to Johnson Constructors on an invoice to Green Fairways for
25 work performed for the Utility. The check, payable to both Green Fairways and

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Supplemental Response to Citizens’ Interrogatory 7.

²¹ Response to Citizens’ Interrogatory 76.

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1 Johnson Constructors has been previously provided. There have been no other
2 direct charges by Johnson Constructors to KWRU or payment by KWRU to
3 Johnson Constructors.”²² However, as discussed in greater detail below, Green
4 Fairways billed KWRU for \$31,887 and \$34,200 on December 11, 2006 and
5 November 6, 2006 for services performed by Johnson Constructors in connection
6 with the AWT.²³

7 **Q. WHAT PRODUCTS OR SERVICES ARE PROVIDED BY KEY WEST**
8 **GOLF CLUB?**

9 A. Key West Golf Club provides management, accounting, and customer service
10 functions to KWRU.²⁴ In response to Citizens’ Interrogatory 7, the Company
11 stated that: “Key West Golf Course/Club does not own any companies, and only
12 provides limited services to KWRU.”²⁵

13 There are three employees of KWGC who provide services to the
14 Company. These are Doug Carter, Gillian Sheifert, and Judi Irizarry. According
15 to the Utility’s MFRs, Mr. Carter, KWGC General Manager, spends
16 approximately 30% of his time on Utility work. He oversees the daily operations
17 of KWRU. In this capacity he has daily contact with KEI and Mr. Smith and also
18 has responsibility for new customer contracts and management of capital projects.
19 Ms. Seifert, KWGC Chief Financial Officer, oversees all accounting functions for
20 the Utility. Ms. Seifert spends approximately 50% of her time on utility matters.

²² Response to Citizens’ Interrogatory 77.

²³ Response to Citizens’ POD 3.

²⁴ Responses to Citizens’ Interrogatories 7 and 29. During 2004, 2005, and 2006, Mrs. Smith owned 75% of KWGC.

²⁵ Response to Citizens’ Interrogatory 7.

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1 Ms. Irizarry acts as the Customer Service Manager for the Utility, but is paid by
2 the golf club. Ms. Irizarry manages utility accounting, performs daily banking
3 tasks, performs filing and record keeping tasks associated with new connections,
4 and does field service coordination with the service company, KEI. Ms. Irizarry
5 spends almost²⁶ 100% of her time on utility matters.²⁷

6 **Q. ARE YOU RECOMMENDING ANY ADJUSTMENTS TO CHARGES**
7 **FROM KWGC?**

8 A. During the test year KWGC paid bonuses to its employees in the amount of
9 \$12,038.²⁸ Part of the bonuses were for year-end bonuses and the remainder are
10 characterized as EDU bonuses and are paid for each customer that is connected to
11 the system. I do not believe that it is appropriate to pass these bonuses on to
12 customers. The EDU bonuses are clearly designed to enhance the Company
13 revenue and therefore benefits the stockholders. In addition, the Company pays
14 KWGC a management fee of \$8,000 a month. Any bonuses paid to employees of
15 the golf course should be covered in this fee.

16 **Q. WHAT PRODUCTS OR SERVICES ARE PROVIDED BY KEYS**
17 **ENVIRONMENTAL, INC.?**

18 A. Keys Environmental, Inc. (“KEI” or “Keys Environmental”) provides operational
19 services to KWRU. This company essentially operates the plant and performs
20 related maintenance services for the sewer treatment plant and collection system.

²⁶ In her deposition, Ms. Irizarry explained that when she performs banking and post office errands on behalf of the Utility she also performs the same task for the golf club.

²⁷ MFRs, Volume IV.

²⁸ Ibid.

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1 Mr. Christopher Johnson is president of KEI and is the son-in-law of KWRU
2 President William Smith.

3 Key's Environmental, Inc. was started by Mr. Smith's son-in-law to
4 service KWRU. The offices of KEI are located in the Utility owned trailer for
5 which it pays the Utility \$24,000 annually. Key's Environmental also uses all of
6 the Company's owned vehicles for which it pays no lease fees, but does pay for
7 its gasoline and for vehicle maintenance. Key's Environmental bills the Utility
8 for all purchases of supplies, chemicals, and sludge hauling.

9 The Key's Environmental contract indicates that the following services
10 will be provided to the Company: periodic inspections and minor maintenance to
11 keep the system in good condition; daily inspection of pumping stations;
12 preventative maintenance programs; monitoring the collection systems, including
13 lift stations, manholes, gravity lines, manholes, reclaimed water lines, meters,
14 control panels, pumps, blowers and related equipment. The contract also states
15 that KEI will do sampling and testing. Key's Environmental is also supposed to
16 be responsible for customer complaints and handle all service disconnections.
17 Keys Environmental is also responsible for pumping and hauling sewage at
18 specific rates set forth in the contract and for jet rodding of sewer lines at a cost of
19 \$1.00 per linear foot or \$100.00 per hour for on-site services such a pump station
20 maintenance.

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1 The contract also provides for meter reading, answering services and
2 dispatch services. Finally, the contract states that Keys Environmental will
3 supervise and inspect new customer tie-ins.

4 **Q. DOES THE CONTRACT SPECIFY HOW KEI IS COMPENSATED FOR**
5 **ITS SERVICES OTHER THAN THE EXTRA ITEMS JUST**
6 **MENTIONED?**

7 A. No, it does not. However, there is a provision in the contract for compensation.
8 Unfortunately, the amounts in the contract are blank. There appears to be no
9 written arrangement between K W Resort Utilities, Corporation and KEI for the
10 amount of compensation that KEI will be paid for operating and maintaining the
11 Company's wastewater system. Such an open-ended arrangement would be
12 unlikely in an arm's length arrangement and should be considered imprudent in
13 the instant situation.

14 **Q. DOES KEYS ENVIRONMENTAL HAVE ITS OWN EMPLOYEES?**

15 A. Yes, it does. According to the Staff Audit, the contract between the Company and
16 KEI requires that two full time operators and a manager work a minimum of eight
17 hours a day on weekdays and two hours a day on weekends. In his deposition,
18 Mr. Johnson testified that:

19 We have parttimers and fulltimers. Fulltime staff, including
20 myself, six fulltime, a parttime administrator, 16 hours a week, and
21 we have an instrument calibration technician who is very limited.
22 We calibrate about two times a year. We call him in from time to
23 time to troubleshoot.²⁹
24

²⁹ Smith Deposition, p. 6.

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1 Q. IS THERE A CLEAR LINE OF DEMARCATION BETWEEN THE
2 UTILITY AND KEYS ENVIRONMENTAL?

3 A. No, there is not. For all intents and purposes Keys Environmental functions as if it
4 were the Utility. There are several facts that indicate that any distinction between
5 the Utility and KEI is minor.

6 First, Keys Environmental uses all of the vehicles owned by the Utility,
7 but pays no lease fee for their use. Since the Utility has no employees it is
8 questionable why the vehicles are even owned by the Utility.

9 Second, Keys Environmental rents the Utility's trailer that is located at the
10 sewer site but no employees of either the Utility or Key West Golf Club occupy
11 the trailer.

12 Third, Mr. Doug Carter, who is the General Manager of the Utility and
13 also works for the golf course, said in his deposition that he supervises Mr.
14 Johnson, president of Keys Environmental, on certain utility issues.³⁰

15 Fourth, Mr. Smith stated in his deposition that to the best of his knowledge
16 all expenses of KEI are reflected on the books of the Utility.³¹

17 Fifth, the Utility pays a portion of Mr. Johnson's credit card bills where it
18 is determined that the expenses relate to utility business.

19 Sixth, Mr. Johnson has approved payment to vendors that were paid by the
20 Utility in connection with the purchase of a vehicle owned by the Utility.³²

³⁰ Carter Deposition, p. 19.

³¹ Smith Deposition, p. 31.

³² Response to Citizens' POD 28.

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1 Q. WHAT EXPENSES RELATED TO KEI WERE RECORDED ON THE
2 BOOKS OF THE COMPANY DURING THE TEST YEAR?

3 A. During the test year, as shown on Schedule 4, KWRU recorded charges of
4 \$615,756 from KEI. KEI charged the Utility \$630,643 in 2005 and \$330,003 in
5 2004. The expenses charged to the Company during the test year include
6 \$19,472 charged to sludge disposal, \$42,947 charged to chemicals, \$80,800
7 charged to materials and supplies, \$384,588 charged to contractual services-other
8 and \$1,866 charged to miscellaneous expenses.

9 Q. DO YOU HAVE ANY CONCERNS ABOUT THE CHARGES FROM KEI
10 THAT ARE SHOWN ON THE BOOKS OF THE COMPANY?

11 A. Yes, I have several concerns. First, it appears that KEI is including a certain
12 percentage mark-up on materials and supplies and chemicals that it purchases on
13 behalf of the Company. This matter was discussed in the confidential portion of
14 Mr. Johnson's deposition. Also, in response to Citizens' POD 28 the Company
15 provided an invoice from KEI with a notation suggesting that certain charges are
16 marked up over cost. Specifically, the invoice stated: "Pass Thru to KWRU No
17 Mark-up Auto Accessory. KEI has 0 tangible property." I've attached this invoice
18 as Schedule 5 of my exhibit. In response to a Staff Audit Request the Company
19 provided additional workpapers for the electricity, chemicals and contract hauling
20 expenses included in its proforma adjustment for the AWT. This workpaper,
21 which is included as page 5 of Schedule 5, shows that the Company has included
22 a 30% mark-up on chemicals and sludge hauling services provided by KEIs. In

PUBLIC VERSION

1 addition, the Company produced the invoice for chemicals that are included in
2 test year expenses. Rather than submit the actual invoice from the vendor, the
3 Company supplied the handwritten invoices from KEI with no supporting back up
4 documentation. All of this information strongly suggests that KEI charges the
5 Company more than it costs KEI to purchase the supplies. In my opinion, this is
6 inappropriate. For all intents and purposes KEI is the Utility and performs only
7 minor services for other entities. In addition, these services are a function of the
8 services it provides to the Utility. If KWRU purchased the chemicals and moved
9 the sludge, the Commission would not permit it to mark-up its expenses by more
10 than the actual costs. Because KEI is an affiliated party and is essentially an arm
11 of the Utility, I recommend that all mark-ups be disallowed.

12 While I do not have the precise amount for the expenses included in the
13 test year, I am providing a conservative estimate. I am assuming that KEI marked
14 up the amount of chemicals and sludge hauling expenses by 30% in the test year.
15 To remove this mark-up, I recommend that the Commission disallow \$33,826
16 from test year chemicals, materials and supplies, and sludge hauling expenses, as
17 shown in the table below. Citizens are requesting additional discovery on this
18 matter.

19

	Expenses Marked Up by KEI			
Account	Expense Amount	Adjustments	Net Amount after Prior Adjustments	Mark-up Disallowance
20 Chemicals	\$ 50,763	\$ (16,480)	\$ 34,283	\$ 7,913
21 Sludge Hauling	\$ 19,472	\$ (7,819)	\$ 11,653	\$ 2,690
22 Materials and Supplies	\$ 103,361	\$ (2,739)	\$ 100,622	\$ 23,224
Total	\$ 173,596	\$ (27,038)	\$ 146,558	\$ 33,826

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Q. WHAT IS YOUR NEXT CONCERN ABOUT KEYS ENVIRONMENTAL AND THE AMOUNTS CHARGED TO THE COMPANY?

A. I have concerns about the hook-up fees charge by KEI to customers of the Utility. It is unclear exactly what functions are being performed for this service. Even Mr. Smith and Mr. Johnson were unclear about how the cost of performing hook-ups and inspections were handled by the Utility. Mr. Smith discussed this in his deposition as follows:

Q. Thank you very much. I appreciate that. I want to move on to hookup fees and talk a little bit about that. What I understand is hookup fees are \$450 per connection for EDU?

A. Didn't he say \$150?

Q. I thought hookup fees to connect, the charge is \$450 per customer.

A. I thought the testimony was \$50. Do you have notes on this?

Q. I guess we can get to that.

A. That will give you an idea of my knowledge.

Q. Or mine.

A. Okay.

Q. Whatever the fee is, is Keys Environmental responsible for making sure these customers are hooked up?

A. Yes.

Q. Does Keys Environmental collect the connection fee from the customer?

A. I don't know that. I believe KWRU collects the money.

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Q. As far as you know, would that money be recorded on the books of KWRU?

A. I believe it would be.

Q. Would you be able to --

A. But, I may be in error.

Q. Do you know what Keys Environmental, then, is paid for their service by the utility for this?

A. The management fee plus there was a list of other things. There are inspection fees. So long as you are refreshing his recollection, refresh mine, too.

MR. BURGESS: Marty, this is interrogatories, in response to Interrogatory 72.

Q. (BY MR. BURGESS) I will show it to you.

MR. BURGESS: Ralph, I have given Mr. Smith a copy of Interrogatory 72.

A. All right.

Q. (BY MR. BURGESS) It is \$450?

A. \$450 is what that answer says. I presume my staff got it right.

Q. I am sure they did. Is that an increase from what was charged in 2005 or prior years?

A. It said it was. If it said it was, it was.

Q. Do you know why it increased from \$350 to \$450 in '06?

A. It took more time, more effort. You heard Mr. Johnson explain what he had to do. There are 4 or 5 site visits.

Q. What I am trying to understand is, in the process how this works its way out into the account, both the cost to do it and the amount that is paid by the customer. I will get to the specific question. I am trying to understand, is it money collected by

PUBLIC VERSION

1 KWRU for the entire amount and treated as or how is it treated, or
2 is it collected by Keys Environmental, and how is the expense
3 associated with it paid by KWRU?
4

5 A. I don't know the answer to that question.
6

7 Q. So you wouldn't be able to lead me through an
8 examination of how the money is collected?
9

10 A. That is correct, I wouldn't be able to.
11

12 Q. Do you know whether that hookup fee is approved by the
13 Florida Public Service Commission?
14

15 A. I have been advised it was.
16

17
18 Q. So therefore, has the increase been approved by the Florida
19 Public Service Commission?
20

21 A. I do not know.³³
22

23 The above exchange indicates that Mr. Smith is not clear on how these
24 costs are recovered and recorded on the Company's book.

25 Mr. Johnson was also unclear on the question as set forth below.

26 Q. When a customer seeks to connect to KWRU system --
27 let's say somebody right now that is currently on septic. Is
28 Keys Environmental responsible for seeing to it that the
29 connection is performed properly and is done consistent
30 with requirements, environmental requirements and the
31 requirements of KWRU?
32

33 A. Yes.
34

35 Q. How are you reimbursed for that particular service?
36 Do you charge the customer that hooks up individually, and
37 they pay Keys Environmental or do you charge KWRU, or
38 is there some means for you to get paid for that service?
39

40 A. We are billing the customer directly.

³³ Smith Deposition, pp. 32-35.

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Q. How much do you charge?

A. \$100 per hour.

Q. Has that changed recently?

A. It did change. There was a period before where we are not being paid by the hour. We were being paid based on a percentage of work done. The utility advised us that it would be better or a more consistent way with the Public Service Commission to charge based on \$100 an hour hourly wage. We switched at some point in time, yes.

Q. Physically, as it is happening --and I am a customer seeking to connect into the system. So I run a lateral. Is that something that Keys Environmental will perform for a fee, actually putting in the lateral?

A. No, no. We don't do construction work.

Q. It's all private?

A. Yes.

...

Q. You had said that the switch to an hourly fee was something that, it was your understanding, the Public Service Commission encouraged?

A. It was not my idea.

Q. Do you know whether the hourly fee and how you do it is approved by the Public Service Commission?

A. I don't know.³⁴

Q. DID THE STAFF'S AUDIT ADDRESS THIS ISSUE CONCERNING THE HOOK-UP FEES CHARGED BY KEYS ENVIRONMENTAL?

A. Yes, it did. The Staff Audit indicated that the contract with Keys Environmental included a provision for connecting customers. The Staff Audit, however, noted

³⁴ Smith Deposition, pp. 11-15.

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1 that the functions performed by KEI might be more extensive than what is set
2 forth in the contract.

3 I agree with the Staff Audit in that the contract between the Company and
4 KEI clearly specifies that KEI is responsible for overseeing and inspecting new
5 customer connections. However, as explained in Mr. Johnson's deposition, Keys
6 Environmental does not perform any construction associated with the hook-ups.
7 Because the contract specifically provides for added compensation for other
8 functions performed by KEI, like jet rodding the sewer lines and sludge hauling, I
9 recommend that the Commission treat the functions of inspecting and hooking up
10 customers as part of the contract for which Keys Environmental is paid a
11 significant management fee.

12 Therefore, I recommend that the \$252,690 in connection charges booked
13 to plant in service be removed. The accumulated depreciation related to these
14 additions is \$10,983 and the depreciation expense is \$3,021.³⁵

15 **Q. DID THE STAFF'S AUDIT ADDRESS ANY ADJUSTMENTS RELATED**
16 **TO KEYS ENVIRONMENTAL?**

17 A. Yes. According to the Staff Audit, several items charged by KEI to the Company
18 were incorrectly recorded as expenses by the Company. First, a charge of
19 \$1,313³⁶ for lab testing should be removed as the contract with Key's
20 Environmental provides for sampling and testing. Therefore, this amount is
21 already recovered in the monthly fee charged by KEI to the Company. In

³⁵ Staff Audit, p. 11, 91.33% of Staff's adjustment.

³⁶ Ibid., Staff Audit p. 11.

PUBLIC VERSION

1 addition, \$15,000³⁷ in sewer hook-up fees should have been capitalized to plant in
2 service, account 363 Services to Customers, rather than expensed. Therefore, I
3 removed \$15,000 in sewer hook-up fees.

4 In addition, the Staff auditors identified \$51,663³⁸ of plant items which
5 were expensed which may be more appropriately capitalized. According to the
6 Staff Audit, the Utility did not respond to Staff's request for justification of these
7 expenses. My review of the list of these costs indicates that additional information
8 would be needed to determine if the amounts should be capitalized or expensed.
9 In the absence of that information being provided by the Company, I recommend
10 that the entire amount be capitalized as plant in service. Therefore, I have
11 increased plant in service by \$51,663³⁹ and reduced test year expenses by
12 \$51,663.

13 The Staff Audit also identified two items included in the expense accounts
14 for which the utility will be reimbursed by third parties: a bill for \$2,082 for
15 damage to a pit vacuum that will be recovered from Waste Management who
16 caused the damage, and a bill for \$995 for Oceanside Marina that is to be
17 reimbursed by Monroe County.⁴⁰ I concur with Staff that these items should be
18 removed from the expense accounts. As shown on Schedule 1, I have removed
19 these expenses from the test year.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Adjustments would also need to be made for accumulated depreciation and depreciation expense.

⁴⁰ Staff Audit, p. 11.

PUBLIC VERSION

1 Q. DO YOU RECOMMEND ANY DISALLOWANCE OF COSTS CHARGED
2 TO THE COMPANY BY GREEN FAIRWAYS?

3 A. Yes. The Company failed to provide adequate documentation supporting the
4 management fee paid to Green Fairways. Mr. Smith could not produce any
5 timesheets in support of the amount of time that he spends managing the Utility
6 versus the numerous other companies that he owns or operates through Green
7 Fairways. Even assuming that Mr. Smith spends 50% of his time managing the
8 Utility, his salary equates to an annualized salary of \$120,000, which appears
9 excessive given the amount of time that Mr. Smith spends at the Utility's
10 headquarters in Key West. Even while in Key West, Mr. Smith spends time
11 managing the Key West Golf Course.

12 While Mr. Smith undoubtedly spends time on the phone with utility-
13 related employees when he is not in town (which is approximately once a month)
14 I find it difficult to believe that he spends 50% of his time on utility business
15 given the fact that he is a managing partner of a law firm and owns numerous
16 other businesses. Furthermore, Mr. Smith has most likely been spending more
17 time recently on utility matters due to the rate case and other issues that should
18 subside now that most customers have hooked up to the system. If Mr. Smith
19 maintained time records it would be easier to determine how much time he
20 typically spends on utility business. In the absence of documentation supporting
21 the ongoing time spent by Mr. Smith on utility matters, I recommend that the
22 Commission remove 50% of Mr. Smith's management fee, or \$30,000, under the

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1 assumption that on a going forward basis, Mr. Smith will spend less time on
2 utility matters and there has been no demonstration that the \$60,000 is reasonable.

3 **Q. IS THERE PRECEDENT FOR DISALLOWING COSTS WHEN A**
4 **UTILITY FAILS TO PROVIDE THE NECESSARY DOCUMENTATION**
5 **TO SUPPORT THE REQUESTED COST?**

6 A. Yes. In Palm Coast Utility Corporation's ("Palm Coast" or "PCUC") most recent
7 rate case, the Commission disallowed costs charged by an affiliate because Palm
8 Coast failed to provide adequate documentation justifying the costs included in
9 the test year. The Commission found:

10 OPC witness Dismukes proposed two adjustments related to
11 affiliate transactions. The first adjustment relates to administrative
12 services provided by PCUC's parent (ITT). Ms. Dismukes testified
13 that the Commission should disallow expenses in the amount of
14 \$21,201. She testified that the utility failed to justify this expense
15 and refused to provide on a timely basis the information needed to
16 evaluate the reasonableness of the charge.

17
18 Ms. Dismukes' second adjustment related to charges from ITT
19 Community Development Corporation. During 1995, ITT
20 Community Development Corporation began providing accounts
21 payable processing services to PCUC. This function was
22 previously provided by the utility. She argued that the utility
23 provided no justification for the change, other than a memo saying
24 that "per agreement between Jim Perry of PCUC and myself there
25 will be [a] monthly fee of \$ 1000 for accounting services provided
26 to PCUC." Further, the utility provided no information concerning
27 how the fee was determined or that it is cost effective for ITT
28 Community Development Corporation to provide this service. She
29 proposed a \$10,564 reduction to expenses, due to the absence of
30 supporting documentation.⁴¹
31

⁴¹ Florida Public Service Commission, Order PSC-96-1338-FOF-WS, November 7, 1996.

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1 Although the utility made several arguments attempting to rebut the
2 recommendations of OPC's witness, the Commission disagreed and found the
3 utility did not provide sufficient support to determine if the charges were
4 reasonable.

5 We believe that the record does not provide sufficient support to
6 determine what administrative services are provided under the ITT
7 Community Development Corporation agreement and whether
8 those transactions exceeded the market rate.... Further, we do not
9 believe that water and wastewater customers should be required to
10 pay for charges and R&D assessments to ITT headquarters to
11 cover the funding of international research and development and
12 the costs of ITT corporate administrative and commercial
13 services.⁴²
14

15 The Commission went on to explain that the utility has the burden of proof
16 to prove that its costs are reasonable. The Commission also explained how this
17 case differed from the GTE Florida case where the court established the standard
18 for related party costs and prices.

19 It is the utility's burden to prove that its costs are reasonable.
20 *Florida Power Corp. v. Cresse*, 413 So.2d 1187, 1191 (1982). This
21 burden is even greater when the purchase is between related
22 parties. In *GTE Florida Inc. v. Deason*, 642 So.2d 545 (Fla. 1994),
23 the Court established that when affiliate transactions occur, that
24 does not mean that "unfair or excessive profits are being generated,
25 without more." The standard established to evaluate affiliate
26 transactions is whether those transactions exceed the going market
27 rate or are otherwise inherently unfair. The evidence in the GTE
28 Florida case indicated that its related party costs were no greater
29 than they would have been had services and supplies been
30 purchased elsewhere.

31 The facts in this case differ from those established in the GTE
32 Florida case. The distinction is that in the GTE Florida case, there
33 was evidence in the record that showed that the utility's cost was

⁴² Ibid.

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1 equal to or less than what an arms-length transaction would have
2 been. Other than the testimony provided by Mr. Seidman that
3 either of the above charges are reasonable, PCUC did not provide
4 any documentation to support these costs. As such, we find that the
5 utility has essentially failed to prove the prudence of these charges.
6

7 We find that the utility failed to meet its burden to justify its costs.
8 Accordingly, we have reduced affiliate charges by \$ 25,412
9 (\$31,765 less 20% non-used and useful) and then allocated 59.63%
10 to water and 40.37% to wastewater.⁴³

11 **V. Monroe County Issues**

12
13 **Q. COULD YOU PLEASE DESCRIBE THE PROJECT REFERRED TO AS**
14 **THE SOUTH STOCK ISLAND PROJECT?**

15 A. KWRU and Monroe County entered into an agreement whereby KWRU would
16 expand its central sewer system into South Stock Island by constructing a
17 wastewater collection system. In addition, the Utility would convert its system to
18 comply with the state's mandate that all wastewater treatment meet the Advanced
19 Wastewater Treatment (AWT) standards.

20 **Q. DID MONROE COUNTY PROVIDE FUNDING FOR THIS PROJECT?**

21 A. Yes. Essentially there were two arrangements, one for the design of the project,
22 the other for the construction of the project. For the design phase of the project,
23 Monroe County simply reimbursed KWRU for its costs to prepare the plans,
24 permits, and bids.

25 The funding arrangement for the construction phase of the project,
26 however, is more complicated. Monroe County agreed to fund the construction of

⁴³ Ibid.

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1 the project. KWRU agreed to repay Monroe County using the capacity reservation
2 fees it collects from the new connections to the system. Therefore, ultimately the
3 ratepayers have contributed to the cost of the project.

4 **Q. EXACTLY HOW DID MONROE COUNTY FUND THE**
5 **CONSTRUCTION OF THE SOUTH STOCK ISLAND PROJECT?**

6 A. During the construction phase, KWRU paid its vendors and then submitted the
7 required information to Monroe County for reimbursement.⁴⁴ Where the amounts
8 were supported, Monroe County reimbursed the Company for the amounts paid to
9 its vendors.

10 **Q. WOULD YOU PLEASE EXPLAIN THE PROCESS OF KWRU**
11 **REPAYING MONROE COUNTY?**

12 A. In its response to Citizens' interrogatories, the Company provided the following
13 description of the process of repaying Monroe County:

14 As prescribed by the Agreement, \$2,700 per EDU is collected from
15 the customer. Of this amount, \$2,100 is repaid to the County and
16 \$600 is retained by the Company. In October 2006, the County
17 funded the remaining uncollected amount of \$707,000 as an
18 additional refundable advance as the County assumed the
19 collection of the \$2,700 per EDU. Under this agreement the
20 Company "collects" the \$2,700 per EDU in 3 ways:

- 21 1. The customer pays the Utility \$2,700 per EDU directly to
22 KWRU; the Company records the receipt of CIAC of \$2,700
23 Per EDU, reducing Advances by the same amount and pays the
24 County the \$2,700 per EDU collected;
- 25 2. The County provides a grant of \$2,700 per EDU and pays
26 KWRU directly; the Company records \$2,700 as CIAC
27 received, reducing Advances by the same amount. KWRU then
28 pays the County the \$2,700 per EDU collected;

⁴⁴ Response to Citizens' Interrogatory 82.

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1 3. The Customer signs a Consent and Agreement to pay the
2 County the \$2,700 per EDU over a period of time through the
3 customers property tax bill and the customer or the County
4 notifies the Company that the required connection fee is paid;
5 the Company records \$2,700 as CIAC received, reducing
6 Advances by the same amount. No cash is received by the
7 Company or paid to the County.⁴⁵

8 In summary, the capacity of the South Stock Island Project is for 1,500
9 EDUs, \$2,100 of the \$2,700 capacity reservation fee is remitted to Monroe
10 County as repayment for the construction of the vacuum collection system, and
11 \$600 of the capacity reservation fee collected from customers is retained by the
12 Company in order to fund the conversion to AWT. However, the responsibility
13 for collecting the connection fees now lies with Monroe County as it advanced
14 \$707,000 to KWRU for the AWT portion of the fee the Company expected to
15 receive from new customers.⁴⁶

16 **Q. HAVE CUSTOMERS DELAYED CONNECTING TO THE SYSTEM?**

17 A. According to the Company, "All customers were supposed to be connected to the
18 system within two years, however, considerable balking by customers and lax
19 enforcement by Monroe County have delayed these connections."⁴⁷ Of the 1,500
20 EDUs that are supposed to be connected, only 761 had connected as of October 3,
21 2007.⁴⁸

22 **Q. HAS THE COMPANY ADDRESSED THESE CUSTOMER DELAYS?**

23 A. The Company sent 30-day connection notices to residents of South Stock Island

⁴⁵ Response to Citizens' Interrogatory 79.

⁴⁶ Ibid.

⁴⁷ MFRs, Schedule F-6.

⁴⁸ Response to Staff's Audit Request 14.

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1 and notified the Monroe County Attorney that the notices had been delivered. The
2 following table demonstrates the notices sent by KWRU:

KWRU 30-Day Connection Notices			
Date	Number of Notices	Cost	Method
11/30/2003	825	\$559.54	Island Advertising
4/5/2005	118	\$529.86	
3/17/2005	70	\$306.49	
3/27/2006	21	\$420.00	Monroe County Sherriff's Office
4/16/2006	3	\$225.00	Anderson Process Service

Source: Response to Citizens' Interrogatory 89.

3

4 **Q. ARE THERE ISSUES INVOLVING THE CONSTRUCTION OF THE**
5 **SOUTH STOCK ISLAND COLLECTION SYSTEM AND MONROE**
6 **COUNTY WHICH YOU BELIEVE SHOULD BE EXAMINED AS PART**
7 **OF THIS RATE PROCEEDING?**

8 A. Yes. Monroe County and KWRU have entered into several agreements in which
9 the County has agreed to fund the construction of certain projects to be
10 constructed by the Company. Therefore, it is important to examine the
11 transactions between these two parties. In addition, KWRU's South Stock Island
12 Project has been the source of many customer complaints, prompting a grand jury
13 investigation.

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Q. PLEASE DISCUSS THE PARTICULARS OF THE AGREEMENTS GOVERNING THE CONSTRUCTION OF THE SOUTH STOCK ISLAND PROJECT.

A. There are two agreements that provide for the expansion of KWRU’s central sewer system into South Stock Island and conversion of its system to Advanced Wastewater Treatment (AWT) levels. On December 19, 2001, KWRU and the County entered into a “Reimbursement Contract,” whereby the County agreed to reimburse KWRU no more than \$199,300 for the preparation of engineering plans for the South Stock Island Project, which was budgeted as follows:

• Survey	\$35,000
• Design and Permitting	\$94,750
• Bidding	\$16,750
• Construction Administration and Certification	\$46,800
• Reimbursable Expenses Including Prints and Application Fees	\$ 6,000 ⁴⁹

Also, KWRU agreed to employ the Weiler Engineering Corporation or a similarly professionally qualified Professional Engineering firm.⁵⁰

On July 31, 2002, KWRU and the County signed the Capacity Reservation and Infrastructure Contract. This contract provided that: “As consideration for the purchase the County agrees to fund the Utility’s construction of the wastewater collection system on South Stock Island, in an amount not to exceed \$4,606,000,

⁴⁹ Reimbursement Contract, paragraph 2(b).
⁵⁰ Ibid., paragraph 1.

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1 pursuant to the plans dated May 30, 2002 from Weiler Engineering
2 Corporation.”⁵¹ The construction costs were allocated as follows:

- 3 • Collection System Infrastructure \$3,500,000
- 4 • Contingency Amount \$ 380,000
- 5 • Engineering and Engineering Inspection \$ 279,000
- 6 • Construction Administration and Legal Fees \$ 347,000
- 7 • Testing \$ 100,000⁵²

8 In a letter signed by Mr. Smith written to Mr. Danny Kolhage on
9 November 1, 2002, the construction administration and legal fee portion of the
10 budget is further allocated as \$300,000 for construction administration and
11 \$47,000 for legal fees.⁵³

12 KWRU agreed to repay the County from the capacity reservation fees it
13 would collect from customers connecting to the Stock Island Project.⁵⁴ The
14 agreement provides that of the \$2,700 reservation fee KWRU collects from new
15 customers, KWRU would retain \$600 to cover the incremental costs of converting
16 its wastewater treatment facilities to AWT.⁵⁵ The contract also states the
17 following:

18 Utility agrees not to add the construction cost funded by the
19 County to its cost basis utilized by the Public Service Commission
20 to calculate a reasonable return on invested capital. Utility further
21 agrees not to use the advances in calculating any impact fees,
22 connection charges, or any like charges imposed on the Utility’s

⁵¹ Capacity Reservation and Infrastructure Contract, paragraph 1.A.

⁵² Ibid., paragraph 1.B.

⁵³ Letter from Mr. William L. Smith, Jr., to Mr. Danny L. Kolhage, March 16, 2004, in response to the Draft Audit Report of Monroe County, Exhibit K.

⁵⁴ Ibid., paragraph 4.

⁵⁵ Ibid., paragraph 5.

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1 customers, i.e., that the advances will be applied as a credit against
2 such fees otherwise charged.⁵⁶

3 This contract was amended on December 9, 2003, in order to provide an
4 alternative for property owners who were experiencing a hardship paying the
5 connection fees. The Monroe County Board of Commissioners adopted an
6 ordinance that would allow property owners to pay 5% of the connection fee and
7 finance the remainder of the \$2,700 per EDU over a period of up to 20 years.⁵⁷

8 Finally, on October 8, 2004, the County Attorney certified a Contract
9 Change Request for a change to the Capacity Reservation and Infrastructure
10 Contract. The change calls for an additional \$53,225 to provide sewer lines to
11 Hurricane Hole Marina, Stock Island. The Change Order is attached as Schedule 6
12 of Exhibit KHD-1.⁵⁸

13 **Q. DID KWRU RECEIVE REIMBURSEMENT FROM THE COUNTY FOR**
14 **ALL COSTS FOR THE SOUTH STOCK ISLAND PROJECT?**

15 A. No, it did not. As shown in the table below, Monroe County reimbursed KWRU
16 for 92% of the requested reimbursement amount.

17

⁵⁶ Ibid., paragraph 6.

⁵⁷ Amendment Number One to KW Resort Utilities Corporation Capacity Reservation and Infrastructure Contract, paragraph E.

⁵⁸ Response to Citizens' Interrogatory 91.

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South Stock Island Project Amounts Reimbursed by Monroe County			
	Submitted Invoice Amount	Amount Paid by Monroe County	Difference
Reimbursement Contract			
MC001	\$ 35,000	\$ 35,000	\$ -
MC005	94,750	94,750	-
MC007	16,750	16,750	-
MC0021	46,800	46,800	-
Total	\$193,300	\$193,300	\$ -
Capacity Reservation and Infrastructure Contract			
SSI001	\$ 250,531	\$ 250,531	\$ -
SSI002	295,255	295,255	-
SSI003	344,809	344,809	-
SSI004	345,808	345,808	-
SSI005	752,877	752,877	-
SSI006	607,312	607,312	-
SSI007	141,802	141,802	-
SSI008	115,310	115,310	-
SSI009	461,960	461,960	-
SSI010	323,047	129,480	
		155,541	(38,026)
SSI011	445,521	137,038	(308,483)
SSI012	153,024	148,951	(4,073)
Total	\$4,237,256	\$3,886,674	\$(350,582)
Hurricane Hole Marina			
SSI013 Amended	\$53,225	\$53,225	\$ -
South Stock Island Project Total	\$4,483,781	\$4,133,199	\$(350,582)

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PUBLIC VERSION

1 Q. WHAT WERE THE REASONS WHY MONROE COUNTY DID NOT
2 REIMBURSE ALL THE COSTS SUBMITTED BY KWRU?

3 A. The primary reason was that the Company could not produce documentation for
4 the amounts requested. The County withheld \$308,483 from KWRU Invoice
5 SSI011 because of lack of support. In a letter dated February 26, 2004, to Mr.
6 William Smith, Clerk of Court Mr. Danny L. Kolhage explained,

7 The adjustment of \$308,483.00 represents all of the payments
8 made to your firm pursuant to the contract under the budget
9 category Construction Administration and Legal.

10 As you are aware, during the conduct of the audit being performed
11 by my office, no documentation has been presented to the auditors
12 that would allow us to make a determination that the expenses in
13 this category were made for purposes authorized by the contract.
14 The County Attorney's office concurs with this action.

15 In addition, the County did not reimburse KWRU \$4,073 for sod and
16 repairs to E. Laurel Avenue as submitted on Invoice SSI012.⁵⁹ On Invoice
17 SSI010, Monroe County did not reimburse \$38,026, and provided no explanation
18 for the shortage.

19 Q. DID KWRU AND MONROE COUNTY ENGAGE IN ANOTHER
20 PROJECT?

21 A. Yes. This project is commonly referred to as the Detention Center Project as
22 governed by the Utility Agreement of August 16, 2001.

23 Q. WHAT ARE THE SPECIFIC PROVISIONS OF THE UTILITY
24 AGREEMENT?

⁵⁹ Responses to Citizens' PODs 65 and 66.

PUBLIC VERSION

1 A. According to the agreement, the County agreed to the following:

- 2 • Pay \$1,225,800 in capacity reservation fees,
- 3 • Convey two lift stations,
- 4 • Construct and convey another lift station and sewer main,
- 5 • Purchase wastewater treatment services for the Detention Center and other
- 6 public buildings, and
- 7 • Purchase reuse water for the Detention Center.

8
9 In return for the County's reservation fees and contributed property,
10 KWRU agreed to construct a reuse line to the Detention Center and offsite
11 facilities to connect the lift station at the Detention Center to the Central Sewage
12 System.⁶⁰

13 The capacity reservation fees were to be deposited into an interest bearing
14 escrow account at a federally insured financial institution (Republic Bank) and
15 then transferred to the Utility according to the agreement's escrow terms.⁶¹
16 Additionally, if Monroe County chose to decommission its existing treatment
17 plant, KWRU agreed to contribute up to \$10,000 toward the costs.⁶²

18 **Q. HOW MUCH DID KWRU RECEIVE FROM MONROE COUNTY PER**
19 **THE UTILITY AGREEMENT OF AUGUST 16, 2001?**

20 A. The Company received three payments of \$408,600 each and booked them to
21 CIAC. The first payment was received April 30, 2002, the second on March 31,
22 2003, and the third on March 31, 2004.⁶³

23 **Q. HOW MUCH DID KWRU EXPEND ON THE DETENTION CENTER**
24 **PROJECT?**

⁶⁰ Utility Agreement, dated August 16, 2001, paragraphs 1 and 3.

⁶¹ Ibid., paragraph 7(a).

⁶² Ibid., paragraph 4.

⁶³ Response to Interrogatory 66 and Staff Audit Workpapers, Binder 3.

PUBLIC VERSION

1 A. According to the Company's response to Citizens' discovery, the Company spent
2 \$356,247.⁶⁴ I have prepared Schedule 7 detailing the costs of the Detention
3 Center Project.

4 **Q. DID KWRU EXPLAIN HOW IT USED THE FUNDS RECEIVED BY THE**
5 **COUNTY AFTER THE DETENTION CENTER WAS COMPLETED?**

6 A. In the deposition of Mr. Smith, Citizens inquired how these funds were used.
7 According to Mr. Smith, the funds that were not used for the detention center and
8 jail were used for either the South Stock Island Project or general maintenance.

9
10 Q. Let me back up. I want to go back to Mr. Carter's answers,
11 some of Mr. Carter's answers. I got the impression from
12 what Mr. Carter said -- correct me if my impression is
13 wrong -- that the amount of money that was calculated
14 exceeded the total expenditure necessary to make that
15 connection.

16
17 A. Correct.

18
19 Q. What I want to talk about is the amount by which the
20 funding from the County was going, for the 450 EDUs
21 were going to be used for.

22
23 A. Yes.

24
25 Q. Can you tell me what it was going to be used for, the
26 differential?

27
28 A. It was mostly construction on Stock Island, maintenance of
29 the plant, things of that nature.

30
31 Q. There wasn't a specific separate project, or anything, that it
32 was ear-marked toward?

33
34 A. No.

35

⁶⁴ Response to Interrogatory 85.

PUBLIC VERSION

1 Q. It was general construction and maintenance needs?

2
3 A. Correct.⁶⁵

4
5 **Q. WERE THERE PROVISIONS IN THE UTILITY AGREEMENT THAT**
6 **INDICATED THAT PROPERTY WOULD BE CONVEYED TO THE**
7 **COMPANY?**

8 A. Yes, as described above. However, when asked if the Utility received any
9 property, plant, or equipment from Monroe County, KWRU provided the
10 following response, "In accordance with the Laws of the State of Florida, no
11 public property was transferred to the Utility."⁶⁶ This response is consistent with
12 Mr. Smith's deposition where he indicated that although the contract provided for
13 the conveyance of property, no such transaction took place.

14 However, it is important to note that in the Company's response to the
15 Monroe County Audit signed by Mr. Smith, it states, "...the Utility agreed to take
16 over and manage the operations of the lift stations and assume their operating and
17 maintenance expenses."⁶⁷

18 It is not clear why or how this service is being provided to the County free
19 of charge. Apparently, the service is provided by Keys Environmental, Inc. when
20 it services the other lift stations owned by the Utility. I question whether it is
21 appropriate for the Utility to provide this service to the County at the expense of
22 its general ratepayers.

⁶⁵ Smith Deposition, pp. 41-42.

⁶⁶ Response to Citizens' Interrogatory 85.

⁶⁷ Letter from Mr. William L. Smith, Jr., to Mr. Danny L. Kolhage, March 16, 2004, in response to the Draft Audit Report of Monroe County, p.3.

PUBLIC VERSION

1 Q. ARE THERE ANY OTHER SIGNIFICANT ISSUES WITH THE
2 PROJECTS BETWEEN KWRU AND MONROE COUNTY?

3 A. Yes. In the summer of 2003, citizens of Stock Island began filing complaints with
4 the Florida State Attorney General's Office. In addition, complaints were received
5 from County Commissioners. The complaints alleged that the costs to the
6 residents of Stock Island to connect to the new sewer system were in reality much
7 higher than the Monroe County Board of County Commissioners (BOCC) told
8 them their costs would be when the project began. In addition, residents claimed
9 that the increase of the hook-up charges was because the engineering plans were
10 changed without the knowledge or approval of the BOCC. State Attorney Mark
11 Kohl ordered an investigation of the project and the complaints, which was
12 presented to a grand jury at the culmination of the fall term in 2004.⁶⁸

13 Q. WHAT DID THE GRAND JURY FIND?

14 A. The grand jury investigation found the following:
15 1. Contrary to the provisions in the Capacity Reservation and Infrastructure
16 Contract, the County Engineer did not inspect all of the work for completion
17 prior to the approval of invoices for payment;⁶⁹
18 2. The County did not recover \$147,000 KWRU paid to John L. London,
19 former Monroe County Commissioner, as provided for in the contract;⁷⁰

⁶⁸ Final Report of the 2004 Fall Term Grand Jury of the Sixteenth Judicial Circuit of the State of Florida,
p. 3.

⁶⁹ Ibid., p. 5.

⁷⁰ Ibid., p. 6.

PUBLIC VERSION

- 1 3. The BOCC Commissioners were negligent for failing to evaluate and assess
2 the financial burden of the many fees and additional costs property owners
3 must bear with the new system;⁷¹
- 4 4. The BOCC's process for reviewing KWRU's construction plans appeared to
5 be flawed;⁷²
- 6 5. The Stock Island Project was funded 100% with taxpayer money; however,
7 the infrastructure would remain property of the Utility. Also the new system
8 was to serve 1,500 EDUs, but the grand jury's consultant determined the
9 capacity would only be 850 EDUs;⁷³
- 10 6. Under the Utility Agreement, public property and equipment were again
11 being conveyed to a private entity;⁷⁴ and
- 12 7. Based on the findings of the County's March 19, 2004, internal audit,
13 performed at the request of the Monroe County Clerk of the Circuit Court,
14 the County was found to be negligent and/or incompetent in their control of
15 public funds.⁷⁵
- 16 a. Contrary to the contract, no escrow agent or agreement was put in
17 place, and KWRU had sole discretion of the reserved capacity funds;
- 18 b. Upon the audit department's recommendation, the County withheld
19 \$308,483 in construction and legal fees because of the Utility's failure
20 to provide supporting documentation for these fees. KWRU paid these

⁷¹ Ibid., p. 7.

⁷² Ibid., p. 8

⁷³ Ibid., p. 10.

⁷⁴ Ibid.

⁷⁵ Ibid., p. 11-12.

PUBLIC VERSION

1 fees to Smith, Hemmesch & Burke and Green Fairways, Inc. Both are
2 affiliates of the Utility: KWRU's President William Smith is a partner
3 of Smith, Hemmesch & Burke and the president of Green Fairways,
4 Inc.

5 **Q. WHAT WERE THE FINDINGS OF THE COUNTY'S INTERNAL AUDIT**
6 **OF THE BOCC?**

7 A. The internal audit conclusions include the following:

- 8 1. Section 7 of the Utility Agreement requires the use of an escrow agent for
9 the capacity reservation fees paid by Monroe County for the Detention
10 Center project, however, no agent was ever assigned or used.
- 11 2. There were two instances where KWRU withdrew money from the
12 Detention Center escrow account to pay for work performed on the South
13 Stock Island Expansion Project. These amounts were subsequently
14 reimbursed to KWRU under the Capacity Reservation and Infrastructure
15 Contract.
- 16 3. The auditors concluded that the Utility Agreement is ambiguous as to how
17 the capacity reservation funds paid by Monroe County for the Detention
18 Center project were to be used by KWRU.
- 19 4. E.T. MacKenzie charged KWRU for two mobilization costs associated with
20 the Capacity Reservation and Infrastructure Contract, however, no separate
21 construction phases occurred. During interviews the auditors conducted with
22 the county engineer, the engineer stated the costs appeared reasonable.

PUBLIC VERSION

1 5. The Utility had not remitted to the County the fees that it collected under the
2 Capacity Reservation and Infrastructure Contract.

3 6. The engineering firm URS recommended an audit of the construction phase
4 be performed to confirm the fees charged for construction administration
5 and legal fees were consistent with the services performed since KWRU
6 could not provide the supporting documentation.

7 7. The auditors found that both the Utility Agreement and the Capacity
8 Reservation and Infrastructure Contract have unusual provisions that need
9 monitoring.

10 **Q. WHAT IS THE NATURE OF THE PAYMENTS TO FORMER BOCC**
11 **COMMISSIONER MR. JOHN L. LONDON FOR SERVICES PROVIDED**
12 **TO THE COMPANY?**

13 A. The Grand Jury investigation into the contracts between Monroe County and
14 KWRU revealed that monthly payments of \$2,500 were made to Mr. John
15 London from November 1998 to October 2003, totaling \$147,500.⁷⁶ Mr.
16 London's term on the BOCC expired in October 1998.⁷⁷

17 According to the Company's response to Citizens Interrogatory 64, Mr.
18 London received a total of \$160,000 from KWRU from 1998 to 2004. According
19 to KWRU, "Mr. London served as liason (sic) between Monroe County and the
20 Utility in its efforts to expand operations to South Stock Island."⁷⁸

⁷⁶ Final Report of the 2004 Fall Term Grand Jury of the Sixteenth Judicial Circuit of the State of Florida,
p. 6.

⁷⁷ Monroe County BOCC Response to the 2004 Fall Term Grand Jury, p. 7.

⁷⁸ Response to Citizens' Interrogatory 64.

PUBLIC VERSION

1 Q. HOW WERE THE PAYMENTS TREATED ON THE COMPANY'S
2 BOOKS?

3 A. According to the Company's response to Citizens' Interrogatory 64, \$32,500 of
4 the payments was capitalized to plant accounts and \$127,500 was expensed.

5 Q. CAN THE COMPANY PROVIDE DOCUMENTATION SUPPORTING
6 THE PAYMENTS TO MR. LONDON?

7 A. No. The Company stated, "No invoices are associated with this oral agreement for
8 \$2,500 per month with Mr. London (now deceased) for his assistance in
9 negotiations with Monroe County...."⁷⁹

10 Q. DO YOU BELIEVE THAT CUSTOMERS SHOULD BE CHARGED FOR
11 THE AMOUNT PAID TO MR. LONDON THAT REMAINS
12 CAPITALIZED ON THE COMPANY'S BOOKS?

13 A. No, I do not. First, the Company has not provided any support for the amounts
14 charged by Mr. London. There were no written contracts between the Company
15 and Mr. London nor were there any invoices from Mr. London to the Company.
16 Second, the Company has not demonstrated that ratepayers received any benefits
17 from the amounts paid to Mr. London. Third, the Company has not shown that the
18 amounts should have been capitalized as opposed to expensed. Therefore, I
19 recommend that the Commission remove the \$32,500 charges to plant in service
20 of which \$27,500 was charged to franchises and \$5,000 was charged to force
21 mains.

22 Q. BASED ON YOUR ANALYSIS OF THE CONTRACTS BETWEEN KWRU

⁷⁹ Response to Staff Audit Request 3.

PUBLIC VERSION

1 **AND MONROE COUNTY, DO YOU RECOMMEND ANY**
2 **ADJUSTMENTS TO PLANT?**

3 A. Yes. I recommend that the Commission remove from plant in service the \$10,000
4 expended by the Utility to decommission the County's treatment facility. This
5 money appears to have been spent to decommission a treatment plant that was not
6 owned by KWRU. Therefore, the expenditure of these funds should not be
7 charged to the Company's customers. Consequently, I recommend that plant in
8 service be reduced by \$10,000. If the Company can demonstrate that the cost to
9 decommission the plant for Monroe County was not capitalized to plant in
10 service, then this adjustment would not be necessary.

11 Another adjustment to plant in service should be made for the charges
12 from the legal firm White and Case. The invoices provided in response to Staff
13 Audit Request 3 clearly show these services were provided to the Utility in
14 connection with responding to the Monroe County Audit Report. I do not believe
15 that these costs should have been capitalized and therefore should not be included
16 in rate base. Moreover, the cost to the Utility to defend itself against Monroe
17 County should be borne by stockholders, not ratepayers. In total, \$27,230 was
18 charged to the Utility. Therefore, I recommend that plant in service be reduced by
19 \$27,500 with corresponding adjustments to accumulated depreciation and
20 depreciation expense.

21 Next, I recommend that all charges from Green Fairways be removed from
22 the capitalized cost of the South Stock Island Project. Although these fees were

PUBLIC VERSION

1 supposed to be for management of the project, the invoices from Weiler
2 Engineering indicate that they also provided management and oversight of the
3 construction of the project. Green Fairways charged KWRU \$32,198 as a
4 management fee⁸⁰ and \$301,180 for administration of the South Stock Island
5 Project.⁸¹ However, when asked in connection with the Monroe County Audit for
6 work completion logs for Green Fairways, the auditors for Monroe County noted
7 that the logs “were completed by the engineering firm and consisted of daily work
8 reports of approximately one page per work day.”⁸² It does not appear that Green
9 Fairways administered the project; instead, this function appears to have been
10 performed by the engineering firm. Consequently, these costs should not be
11 passed on to ratepayers as they received no benefit from them. Therefore, I
12 recommend that \$333,378 be removed from plant in service as well as the
13 associated adjustments to accumulated depreciation and depreciation expense as
14 set forth on Schedule 1.

15 In addition, the \$25,000 legal fee for Smith, Hemmesch & Burke for its
16 claimed negotiation of contracts for the South Stock Island Project should also be
17 removed. According to the Monroe County Audit Report, the Company could not
18 provide supporting documentation for this charge. The adjustments that I
19 recommend are shown on Schedule 1.

20 **Q. ARE THERE OTHER CHARGES THAT WERE BOOKED TO THE**
21 **SOUTH STOCK ISLAND PROJECT THAT YOU BELIEVE SHOULD BE**

⁸⁰ Staff Audit Request 3.

⁸¹ Ibid.

⁸² Audit Report of Monroe County Contracts with KW Resort Utilities, March 19, 2004, Exhibit R.

PUBLIC VERSION

1 **REMOVED?**

2 A. Yes. There are two other charges capitalized to plant for the South Stock Island
3 Project that I believe should not be charged to ratepayers. The first is \$422 for an
4 advertisement in the Key West Citizen which should have been expensed. The
5 second is \$8,602 in moving expenses for Mr. Chris Johnson.⁸³ I do not believe
6 that the cost to move Mr. Chris Johnson is an appropriate expense to be
7 capitalized to the SSI plant. The adjustments resulting from this recommendation
8 are shown on Schedule 1.

9 **VI. Other Rate Base Adjustments**

10
11 **Q. HAVE YOU INCORPORATED THE USED AND USEFUL**
12 **RECOMMENDATION FROM CITIZENS' WITNESS ANDREW**
13 **WOODCOCK INTO YOUR CALCULATIONS?**

14 A. Yes. As shown on Schedule 1, removing costs associated with non-used and
15 useful plant reduced plant in service by \$1,324,595 and test year expenses by
16 \$6,929.⁸⁴

17 **Q. WOULD YOU PLEASE ADDRESS THE COMPANY'S PROPOSED**
18 **PROFORMA ADJUSTMENT TO PLANT?**

19 A. Yes. KWRU proposes to add \$1,139,707 to its plant due to the conversion to
20 AWT. In his testimony, Mr. Smith explained that KWRU undertook the
21 conversion to AWT earlier than the state's 2010 deadline at the request of Monroe
22 County. In addition, the Utility is refurbishing its plant and to perform these

⁸³ Response to Staff Audit Request 3.

⁸⁴ An adjustment may also be needed for the associated CIAC.

PUBLIC VERSION

1 projects together would be more efficient, cost effective, and reduce duplications
2 of effort.

3 According to Mr. Smith, the conversion began in 2006 and was expected
4 to be completed by October 1, 2007.⁸⁵ However, that deadline has been extended
5 to January 2008.⁸⁶ The original estimates of the projects were \$426,650 for the
6 refurbishment portion⁸⁷ and \$792,350 for the AWT upgrade.⁸⁸ With the project
7 extension, the cost is expected to increase by approximately \$220,000.⁸⁹

8 **Q. HAS THE COMPANY BEEN ABLE TO PROVIDE SUPPORT FOR ALL**
9 **OF ITS PROJECTED CAPITAL ADDITIONS?**

10 A. Citizens requested documentation in its POD 3:

11 Please provide all documents supporting the pro-forma plant
12 additions/improvements to Plant in Service, including but not
13 limited to: invoices, budgets, projection basis, quotes, budget
14 requisitions, monthly payment requests for all projects, signed
15 contracts, all bids for each project either completed or still under
16 construction, and any requirements of the DEP for the proposed
17 plant additions.

18 KWRU's response was "The documents will be produced to the extent
19 they exist." The Utility provided the following documents:

- 20 • Bid from Bob Lomrance for the clarifier foundation in the amount of
21 \$144,600.
22 • Bid from Keys Construction Services, Inc. for the clarifier foundation in
23 the amount of \$148,200.
24 • A proposal from Johnson Constructors for the clarifier foundation project.

⁸⁵ Smith Testimony, p. 4.

⁸⁶ Response to Citizens' Interrogatory 56.

⁸⁷ Smith Testimony, p. 4.

⁸⁸ Ibid., p. 5.

⁸⁹ Response to Citizens' Interrogatory 56.

PUBLIC VERSION

- 1 • A contract from USFilter Davco Products for the clarifier and AWT
- 2 conversion in the amount of \$954,800.
- 3 • Invoices from Green Fairways
- 4 • An invoice from JAS Corp.
- 5 • An invoice from Johnson Constructors
- 6 • An invoice from Keys Environmental, Inc.
- 7 • Notes on a fax from Keys Environmental, Inc.
- 8 • Checks written by Green Fairways.⁹⁰

9 Citizens' relevant interrogatories and the Company's responses are included
10 below.

11 Interrogatory 38: Please provide the status of the plant projects
12 under construction and included in the Company's test year. This
13 status should include, but not be limited to the following: a
14 discussion of the status of the addition; the original estimated date
15 of completion, the current estimated date of completion, and the
16 actual date of completion, if applicable; the status of the
17 engineering and permitting efforts, if the plant addition has not
18 been through the bidding process; the actual cost to complete the
19 addition, the amount expended as of September 2007 if the
20 addition is not complete, and the current estimate of the completed
21 cost of the addition; a statement if any of the pro forma plant is
22 required by the Florida Department of Environmental Protection,
23 and explain why it is required.

24 Company's Response: The documents will be produced in
25 response to OPC's Document Request.

26 11/20/07 Supplement: Documents responsive to this Interrogatory
27 (and Document Request No. 56), in the form of Change Orders
28 from US Filter/Davco, are being copied and will be produced.

29 Interrogatory 56: For purposes of this request please refer to the
30 testimony of Mr. Smith, page 5. Please provide a detailed
31 discussion of the status of the construction of the AWT
32 improvements including updated costs estimates.

33 Company's Response: AWT project is scheduled to be complete
34 Jan 1 2008, at a cost of \$1,204,600 extras to original contract

⁹⁰ This amount includes payments to other contractors/subcontractors as well as the 10% management fee.

PUBLIC VERSION

1 (\$984,600) is approx. \$220,000, which includes \$100,000 in extra
2 steel, \$100,000 extra sludge hauling and \$20,000 for
3 demobilization. Also see attached.

4 Interrogatory 57: For purposes of this request please refer to the
5 testimony of Mr. Smith, pages 3 and 4. Please provide a detailed
6 discussion of the status of the refurbishment of the existing
7 wastewater treatment facilities including updated costs estimates.

8 Company's Response: KWRU is in the midst of the AWT upgrade
9 and expects to be complete by Jan 1, 2008.

10
11 11/20/07 Letter from John Wharton: The answer has been clarified.

12
13 11/20/07 Supplement: KWRU is in the midst of the AWT upgrade
14 and expects to be complete by Jan 1, 2008. See Interrogatories No.
15 38 and 56.

16 In its response to Interrogatory 56, the Company produced an attachment
17 that contained change orders totaling \$139,470, which are provided in Schedule 8.

18 **Q. WHO IS THE CONTRACTOR ON THE PROJECT?**

19 A. According to the agreement for construction of the AWT, Green Fairways, Inc.
20 and Johnson Constructors, LLC together are the "Contractor" on the project.
21 Interestingly, the address for Johnson Constructors is shown as 6330 Front Street,
22 Key West, Florida—the same address of KEI, which the Utility trailer housed at
23 the wastewater treatment plant. According to the contract, the AWT conversion
24 was to reach substantial completion by May 1, 2007.

25 **Q. WHAT CHANGES TO THE COMPANY'S PROFORMA ADJUSTMENT**
26 **TO RATE BASE DO YOU RECOMMEND?**

PUBLIC VERSION

1 A. The Company is proposing to add \$1,139,707 to plant in service for the
2 conversion to AWT.⁹¹ As of November 2007, the cost of the project has increased
3 to \$1,315,142.⁹² I recommend several adjustments to the Company's proforma
4 amount for the AWT upgrade.

5 First, I recommend that the Commission disallow the added costs
6 associated with change orders from Davco as identified below. Upon examination
7 of the Change Orders provided in response to Citizens' Interrogatory 56, it is
8 evident that the change orders were due to the Utility's failure to have the permits
9 in place to do the job as originally scheduled. The change orders reflect additional
10 housing costs associated with the delayed project. The first request for a change
11 order states: "We were originally suppose to start the job on 11/8/06. So we
12 rented a house for \$3,300.00 a month. The customer was red tagged and could not
13 pour the slab until the permits were done."⁹³ The Change Orders are duplicated
14 on Schedule 8. The table below sets forth the amount of each change ordered
15 resulting from the delay. The total of the Change Orders is \$13,547.

US Filter Davco Products Change Orders	
Change Order Number	Amount
1	\$3,667
2	\$1,360
3	\$1,360
4	\$1,360
5	\$5,800
Total	\$13,547

⁹¹ MFRs, Schedule A-3.

⁹² Response to Citizens' POD 81.

⁹³ Response to Citizens' POD 56.

PUBLIC VERSION

1 I do not believe customers should have to pay for the Company's failure to
2 properly secure the permits for the project. Therefore, I recommend removing
3 \$13,547 from the proforma adjustment and the corresponding adjustments for
4 accumulated depreciation and depreciation expense.

5 Second, I recommend that the Commission remove \$111,374 associated
6 with Green Fairways's administration fee. The Utility has capitalized \$111,374 in
7 Green Fairways management fees which includes \$100,094 paid in 2007 plus
8 \$11,281 paid in 2006. Like the situation with the South Stock Island Project, it is
9 not clear what services are being provided by Green Fairways, other than the
10 submission of invoices to KWRU for payment. In addition, according to the
11 contract for this project, the engineer – in this case, Weiler Engineering – is
12 responsible for providing administration of the contract. Therefore, I recommend
13 removing \$111,374 from the proforma plant adjustments and related adjustments
14 to accumulated depreciation and depreciation expense.⁹⁴

15 Third, it appears that Johnson Constructors and JAS Corp. were also
16 providing some management services for the AWT Upgrade. There is also an
17 affiliate relationship between Johnson Constructors and JAS Corp, as JAS Corp is
18 owned by Jim Johnson (Chris Johnson's father). I do not believe ratepayers
19 should pay for two supervisors. Therefore, I recommend all JAS Corporation and
20 Jim Johnson charges relating to project supervision be removed from plant in
21 service. Several of these charges relate to travel charges of Mr. Jim Johnson. The
22 Company has not demonstrated that such costs should be borne by ratepayers.

⁹⁴ Response to Citizens' Interrogatory 73.

PUBLIC VERSION

1 This results in a decrease of \$4,650 to plant in service and related adjustments to
2 accumulated depreciation and depreciation expense. These charges are detailed in
3 the table below.

4

JAS Corp		
10/2/2006	Management Services	2,000
10/2/2006	Per Diem	500
10/2/2006	Flight	198
10/16/2006	Flight	198
10/17/2006	Per Diem	100
10/18/2006	Auto Expense	13
10/19/2006	Auto Rental	111
10/22/2006	Flight	198
10/22/2006	Flight	198
10/23/2006	Per Diem	250
10/26/2006	Auto Expense	3
10/30/2006	Auto Expense	20
10/30/2006	Auto Rental	214
11/13/2006	Flight	198
11/17/2006	Per Diem	150
11/16/2006	Gasoline	9
11/17/2006	Auto Rental	289
	Total	\$ 4,650
Source: PODs 3, 7, and 73.		

5

6 Fourth, as shown on Schedule 9, there is a \$30,000 charge from Johnson
7 Constructors for which there is no supporting documentation. It is not clear what
8 services were provided for this amount. Absent supporting documentation for this
9 charge, I recommend that it be removed from the cost of the AWT upgrade.

10 **Q. DO YOU HAVE OTHER ADJUSTMENTS TO RATE BASE?**

11 A. Yes. There is a possibility that an adjustment should be made to rate base for an
12 acquisition adjustment. However, at the time of the filing of this testimony, the
13 information necessary to examine this issue was outstanding in discovery.

PUBLIC VERSION

1

2 **VII. Revenue/Billing Issues**

3

4 **Q. HAVE YOU EXAMINED KWRU'S TEST YEAR REVENUE AND ITS**
5 **PROPOSED RATE STRUCTURE CHANGES?**

6 A. Yes. According to Mr. William Smith's testimony, KWRU has historically billed
7 its customers using flat rate charges because it was impossible to obtain water
8 usage information from the Florida Keys Aqueduct Authority ("FKAA").
9 However, that has recently changed and the Company is proposing to move to a
10 Base Facility/Gallon Charge rate structure.

11 The number of bills according to the FKAA usage information is different
12 from the number of bills KWRU has reported. In response to Citizens'
13 Interrogatory 60, the Company explained this difference as follows:

14 The Utility has historically billed flat rates for all but commercial
15 customers. With the FKAA information, certain customers which were flat
16 rate billed, such as multifamily apartment units, have individually metered
17 units as billed by FKAA. As a result, the number of residential customers,
18 including individually metered apartment units, increased. Additionally,
19 based on the FKAA data, meter sizes were updated to agree to what was
20 being billed for commercial and multi-family bulk meters by FKAA. Also,
21 some commercial establishments are being served by multiple meters
22 which were being flat rate billed as a single meter.

23 In order to ensure consistency between test year revenue and the proposed
24 rate design which contains different billing units, I adjusted test year revenue
25 where possible using the FKAA billing data the Company proposes to use. As
26 shown on Schedule 10, this adjustment increases test year revenue by \$158,151.

27 **Q. WHAT IS THE NEXT ADJUSTMENT TO TEST YEAR REVENUE THAT**

PUBLIC VERSION

1 **YOU RECOMMEND?**

2 A. The second adjustment that I recommend relates to the trailer rent paid to the
3 Company by Weiler Engineering Corporation. As discussed earlier, KWRU owns
4 a trailer which Keys Environmental, Inc. and Weiler Engineering, Corp. occupy.
5 During the test year, \$37,400 in rent was generated from the construction trailer.⁹⁵
6 In examining the billing summary the Company provided in response to Citizens
7 Interrogatory 4, the rent charged to KEI has always remained constant at
8 \$2,000/month. In contrast, since 2002, the rent charged to Weiler Engineering
9 Corporation changed four times in five years. For some unknown reason, during
10 the test year the monthly rent charged to Weiler Engineering Corporation went
11 from \$1,750 to \$800. Without an explanation for the change in the monthly rent
12 charged to Weiler Engineering Corporation, I recommend that the Commission
13 adjust test year revenues to reflect that monthly rent of \$1,750 is paid by Weiler
14 Engineering Corporation for the entire year. Accordingly, I recommend that test
15 year revenue be increased by \$14,600. In addition, the Commission should be
16 aware that Johnson Constructors, another affiliate, uses the same address as the
17 Utility trailer, but no rent is paid by this entity.

18 **Q. WHAT IS YOUR NEXT ADJUSTMENT TO TEST YEAR REVENUE?**

19 A. The Company recorded \$19,624 of income below the line. According to the
20 Company's response to Citizens' Interrogatory 74, this income was received from
21 Monroe County to keep its lift stations and other portions of its wastewater

⁹⁵ Company's MFRs, Schedule E-5.

PUBLIC VERSION

1 system clear and clean.⁹⁶ Since the Utility has no employees, this service is most
2 likely provided by KEI. The person(s) that perform this service on behalf of the
3 County would appear to be the same person(s) that maintains the Utility's lift
4 stations. I have seen no documents which indicate that KEI keeps a record of the
5 time it spends on servicing Monroe County lift stations versus the Utility lift
6 stations. Consequently, in the absence of a showing that the cost of cleaning these
7 lift stations has been excluded from the costs charged to the Company, the
8 associated revenue/income should be recorded above the line for ratemaking
9 purposes. Therefore, test year revenue should be increased by \$19,624.

10 **VIII. Expense Adjustments**

11
12 **Q. HAVE YOU MADE ANY ADJUSTMENTS TO THE COMPANY'S TEST**
13 **YEAR EXPENSES TO REMOVE ABNORMAL AND NON-RECURRING**
14 **EXPENSES?**

15 A. Yes, I have. Schedule 11 details the analysis that I performed in developing the
16 adjustment to test year expenses for abnormal and non-recurring levels of
17 expense.

18 **Q. HAVE YOU DONE AN ANALYSIS THAT EVALUATES THE INCREASE**
19 **IN EXPENSES INCLUDED IN THE TEST YEAR?**

20 A. Yes. I examined the level of the Company's expenses in the years 2002, 2003,
21 2004, 2005, and 2006. This analysis is shown on Schedule 11. As depicted on this
22 schedule, many of KWRU's expense categories experienced significant cost

⁹⁶ Response to Citizens' Interrogatory 74.

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1 increases during this time period. As shown, sludge removal expenses increased
2 by 36% in 2005 and another 252% in 2006. On average over the 5-year period
3 2002 to 2006, these expenses increased by 33%. Likewise, chemical expenses
4 have increased by 145% on average over the last five years, while materials and
5 supplies increased by 22%, and contractual services – engineering increased by
6 301% over the same time period. Schedule 11, shows the year-to-year and five
7 year average of cost increases associated with each major expense account.

8 **Q. BEFORE YOU BEGIN A DISCUSSION OF THE SPECIFIC**
9 **ADJUSTMENTS, WERE THERE ANY PARTICULAR EVENTS THAT**
10 **COULD HAVE CAUSED THE COMPANY’S EXPENSES TO BE**
11 **UNUSUALLY HIGH DURING THE TEST YEAR?**

12 **Begin Confidential Redacted**

13 [Redacted]

14 [Redacted]

15 [Redacted]

16 [Redacted]

17 [Redacted]

18 [Redacted]

19 [Redacted]

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[REDACTED]

End Confidential Redacted

15 **Q. WOULD IT BE APPROPRIATE TO INCLUDE IN TEST YEAR COSTS**
16 **EXPENSES RELATED TO A HURRICANE?**

17 A. No, it would not. Because hurricanes and their associated damage are not
18 incurred annually, it would be inappropriate to charge customers as if one of these
19 events occurred every year.

20 **Q. WHEN WAS THE LAST TIME THAT ANOTHER HURRICANE HIT**
21 **KEY WEST?**

22 A. According to the website <http://www.hurricanecity.com/city/keywest.htm> Key
23 West was hit by Hurricane Irene on October 15, 1999 and did minor damage. This
24 website also stated that Key West is affected by direct hits from hurricanes once
25 every 7.16 years. Clearly, under these circumstances it would be inappropriate to
26 include in test year expenses costs related to a hurricane that caused major
27 damage and resulted in unusually high expenses.

28 **Q. WHERE THERE ANY OTHER EVENTS DURING THE TIME PERIOD**

⁹⁷ Chris Johnson Deposition, pp. 55, 56, 59, 66, 67.

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1 **THAT YOU EXAMINED WHICH MAY HAVE IMPACTED EXPENSES**
2 **THAT SHOULD BE ADDRESSED?**

3 A. Yes. In 2003 the Company completed the construction of a new vacuum sewer
4 collection system. As result of this, the Company anticipated adding
5 approximately 1,500 new EDUs to its wastewater system. As a result, the
6 Company experienced significant growth in EDUs in 2004, 2005, and 2006. In
7 response to Staff Audit Request 18 and in response to Citizens' Interrogatory 72,
8 the Company showed that in 2004 it added 337.23 EDUs, in 2005 it added 187.50
9 EDUs and in 2006 it added another 151.80 EDUs. Therefore, where costs are
10 variable I would expect the Company's expenses to increase with the addition of
11 these customers.

12 **Q. TAKING THESE FACTORS INTO CONSIDERATION, DO YOU HAVE A**
13 **RECOMMENDATION ON WHICH EXPENSE ACCOUNTS SHOULD BE**
14 **ADJUSTED DUE TO THEIR ABNORMAL NATURE?**

15 A. Yes. I recommend that the following expenses be adjusted because test year
16 expenses are abnormally high compared to the past four years.

- 17 • Sludge Removal
- 18 • Chemicals
- 19 • Materials and Supplies
- 20 • Contractual Services – Engineering
- 21 • Contractual Services – Other

22 **Q. DID YOU ASK THE COMPANY WHY THESE EXPENSES INCREASED**

PUBLIC VERSION

1 **BETWEEN THESE YEARS?**

2 A. Yes. Citizens requested that the Company provide an explanation for several of
3 these expense increases. Also, the Company is required, as part of the MFR
4 requirements, to explain increases in expense levels that are not explained by a
5 change in the number of customers and the CPI-U. This information is supposed
6 to be provided since the last rate case. If the applicant has not had a previous rate
7 case, the information is to be provided for the year five years prior to the test year.

8 **Q. WHAT WAS THE COMPANY'S RESPONSE CONCERNING WHY**
9 **SLUDGE HAULING EXPENSES INCREASED SO SUBSTANTIALLY**
10 **DURING THE TEST YEAR—FROM \$5,537 IN 2005 TO \$19,472 IN 2006?**

11 A. In response to the requirements in the MFRs to explain the increase in sludge
12 hauling costs, the Company stated: "Change in sludge disposal requirements."
13 However, in the deposition of Mr. Johnson, when asked if sludge hauling
14 requirements had changed in the last five years, Mr. Johnson stated: "The
15 requirements are the requirements. They have not changed. What we have done
16 is different, if that is what you are asking."⁹⁸ Citizens also asked the Company to
17 explain the increase in these expenses in its Interrogatory 18 (a). In response to
18 this interrogatory, the Company stated:

19 See the Response to Audit Request No. 25. After removal of this
20 activity, (allowing for \$2,500 for normal activity) Sludge Removal
21 Expense increased by \$5,023, or 0.91%.
22

⁹⁸ Johnson Deposition, p. 10.

PUBLIC VERSION

1 The Company also explained in response to Interrogatory 18 that sludge
2 hauling costs changed in the first quarter of 2005 and KWRU was no longer able
3 to allow sludge to dry for 90 days on its drying beds. Consequently, the Company
4 began hauling the sludge to a landfill in Miami.

5 In response to Staff Audit Request 25, the Company indicated that the
6 invoice for \$11,412 was high compared to other months because of blower and
7 diffuser problems at the plant and a high solids inventory that caused the Utility to
8 haul an “inordinate” amount of solids to continue to operate the plant within DEP
9 requirements.⁹⁹

10 All of these responses indicate that the amount of sludge hauling expenses
11 included in the test year are abnormally high.

12 **Q. HOW MUCH DID SLUDGE REMOVAL EXPENSES INCREASE OVER**
13 **THE LAST FIVE YEARS?**

14 A. As shown on Schedule 11, annual sludge removal expenses increased on average
15 by 33% over the last five years, with the increase from 2005 to 2006 at 252%. As
16 shown on page 1 of this schedule, sludge removal expenses also increased
17 significantly on a per customer basis. Examining the expenses on this basis will
18 tend to reduce the impact of customer growth on expense levels (where relevant).
19 In this case there would be some relationship between the amount of sludge
20 processed and hauled and the number of customers. However, even accounting
21 for this factor, sludge removal expenses decreased from \$8 a customer¹⁰⁰ in 2002

⁹⁹ Response to Staff Audit Request 25.

¹⁰⁰ ERCs are used in the calculation which considers both the number of customers as well as volume.

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1 to \$3 a customer in 2003, then increased to \$4 a customer in 2004, \$5 a customer
2 in 2005 and to \$14 a customer in 2006. Clearly, the level of sludge expenses
3 included in the test year is abnormal. Therefore, I recommend that the
4 Commission reduce the level of test year sludge removal expenses.

5 **Q. DID THE STAFF AUDITOR FOR THE COMMISSION FIND THAT**
6 **SLUDGE HAULING EXPENSES WERE UNUSUALLY HIGH DURING**
7 **THE TEST YEAR?**

8 A. Yes. The Staff auditor found that the expenses during the test year appeared
9 higher than normal. The following was contained in the Staff Audit:

10
11 The utility recorded in Account 711 - Sludge Hauling, an expense
12 to haul the sludge for \$11,411.82. This amount is for a total of
13 66.62 tons. The other four charges in this account were for lower
14 amounts. The utility explained that due to blower and diffusers
15 problems at the plant and also to a high solids inventory, the utility
16 had to haul an inordinate amount of solids to continue to operate
17 within the DEP requirements. This charge is probably not
18 recurring and may need to be amortized over five years. The yearly
19 amortization would be \$2,282.36. The deferred amount would be
20 \$9,129.46.¹⁰¹

21
22 **Q. HOW DID YOU DETERMINE WHAT THE NORMAL LEVEL OF TEST**
23 **YEAR SLUDGE HAULING EXPENSES SHOULD BE?**

24 A. Schedule 11 of my exhibit shows three alternatives for determining a reasonable
25 on-going level of sludge hauling expenses. These three alternatives are to use a
26 three year, four year, or five year average of expenses to determine a normal level
27 of expenses. As shown, if a three year average is used, test year expenses should
28 be reduced by \$7,819, if a four year average is used, test year expenses should be

¹⁰¹ Staff Audit, p. 30.

PUBLIC VERSION

1 reduced by \$9,033 and if a five year average is used, test year expenses should be
2 reduced by \$8,994. Given that KWRU has been in the process of adding new
3 customers during the last three years, I recommend using a 3-year period to
4 determine a normal level of test year expenses. Therefore, test year expenses
5 should be reduced by \$7,819. This amount is somewhat less than the amount
6 developed by the Staff auditor, but reinforces that the amount of sludge hauling
7 expense included in the test year is overstated.

8 **Q. DID YOU EXAMINE THE INCREASE IN CHEMICAL EXPENSES?**

9 A. Yes. As shown on Schedule 11, chemical expenses increased by 145% since
10 2003. Chemical expenses increased by 64% in 2003, remained almost constant in
11 2004, increased by 125% in 2005 and by 85% in 2006.

12 **Q. WHAT EXPLANATION HAS THE COMPANY GIVEN FOR THIS**
13 **INCREASE IN EXPENSES?**

14 A. In the MFRs the Company indicated that chemical expenses increased due to
15 "increased treatment requirement due to AWT standards."¹⁰² This response
16 however, appears to be geared toward the proposed 2006 increase in chemical
17 expenses of \$112,341 associated with the AWT conversion.

18 In response to Citizens' Interrogatory 18, which asked the Company to
19 explain the increase in chemical expenses from 2004 to 2006, the Company
20 stated: "Documents responsive to this Interrogatory are being produced in
21 response to the Request for Production of Documents." In response to this
22 interrogatory, the Company produced copies of chemical bills received from its

¹⁰² MFRs, Schedule B-6.

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1 affiliate Keys Environmental. In addition, the Company explained in response to
2 this interrogatory that chlorine prices have increased considerably and that more
3 wastewater is being processed due to a significant increase in users in 2005-06.

4 In response to Interrogatory 49, which asked the Company to “[p]lease
5 explain in detail why Chemical Expenses increased from \$3,773 in October to
6 \$7,152 in November and to \$11,906 in December,” the Company provided the
7 following responses:

8 Initial Response: Our accountants did not break our supplies out of
9 the "Chemical and Supply" categories. Please see 18 (c) for
10 chemical amounts.

11
12 11/20/07 Letter from John Wharton: The answer has been clarified.

13
14 11/20/07 Supplement: Included in the General Ledger account
15 901010000-Chemicals and Supplies are supplies other than
16 chemicals. Invoices showing chemicals purchases have been
17 provided in response to Interrogatory 18(c).¹⁰³

18
19 It would appear that the Company’s explanation of the changes and
20 increases in chemical expenses relate to something that affected supplies as
21 opposed to chemicals. Regardless, the Company did not explain why the costs
22 increased. In my opinion, if the Company booked more than just chemicals to
23 this account, it should explain why the other expenses increased as well.

24 **Q. HAVE CHEMICAL EXPENSES INCREASED WHEN THE GROWTH OF**
25 **CUSTOMERS IS TAKEN INTO CONSIDERATION?**

¹⁰³ Response to Citizens’ Interrogatory 49(a).

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1 A. Yes. As shown on page 1 of Schedule 11, chemical expenses increased from \$7
2 per customer in 2002 to \$12 in 2003, then decreased to \$11 in 2004, increased to
3 \$24 a customer in 2005 and then to \$36 a customer in 2006.¹⁰⁴

4 **Q. DO YOU HAVE A RECOMMENDATION CONCERNING THE**
5 **APPROPRIATE LEVEL OF CHEMICAL EXPENSE THAT SHOULD BE**
6 **USED FOR THE 2006 TEST YEAR?**

7 A. Yes. As shown on Schedule 11, I recommend that test year chemical expenses be
8 reduced by \$16,480. As with the case of sludge removal expenses, I recommend
9 that the normal level of expenses be established using a three-year average.

10 **Q. WHAT IS THE NEXT ACCOUNT THAT YOU EXAMINED?**

11 A. The next account is the materials and supplies account which increased an
12 average of 22% over the last five years and by 33% during the test year—
13 increasing from \$77,678 in 2005 to \$103,361 in 2006. On a per customer basis
14 materials and supplies increased from \$67 in 2005 to \$74 in 2006.

15 **Q. WHAT EXPLNATION HAS THE COMPANY GIVEN FOR THIS**
16 **INCREASE?**

17 A. In the MFRs the Company indicated that materials and supplies expenses
18 increased due to “system expansion and corrosive environment.”¹⁰⁵ Also, in
19 response to Citizens’ Interrogatory 49, the Company gave the following reason
20 for the increase in materials and supplies expenses:

¹⁰⁴ ERCs are used in the calculation which considers both the number of customers as well as volume.

¹⁰⁵ MFRs, Schedule B-6.

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1 Material and supply expenses increase in July from June was
2 mainly due to \$5,478 in office supplies which represent 2 years of
3 a copier lease that was billed at the end of two years; to KWRU
4 from Weiler Engineering on a copier lease in which KWRU agreed
5 to share 50/50 with Weiler. The August to September increase of
6 \$5,152 is due to \$8,636 repair of damaged valve pit in front of
7 Hansen and Bringle, September. Vacuum repair for August was
8 \$3,484 for after hours call outs.¹⁰⁶
9

10 In response to Citizens' Interrogatory 17, the Company also explained that
11 the increase was due to the repair and maintenance of the vacuum collection
12 system. Specifically, the Company stated:

13 In 2001, the Air Vac lift stations and the Vacuum collection system
14 were not in service, so no expenses related to these activities were
15 incurred. In 2006 \$40,000 and \$28,052 in repairs and maintenance
16 costs were incurred respectively for these activities. Removing this
17 \$68,052 in expenses not incurred in 2001 yields a net increase in
18 materials and supplies from 2001 to 2006 of \$13,622, or 0.63%,
19 well under the benchmark index.¹⁰⁷
20

21 The Company's response concerning the additional requirements
22 associated with the Air Vac lift stations and the Vacuum collection system does
23 satisfactorily account for the large increase between 2005 and 2006. These
24 services are provided by the Utility's affiliate KEI.

25 However, with respect to the copier charges, I recommend removal of
26 \$2,739 for the double charge on the copier lease, as I question how the copier is
27 shared. If this copier is shared with KWRU as explained in the response to
28 Citizens' Interrogatory 49, I question where the copier is located and which
29 employees it is shared with, since the Utility has no employees. If the copier is
30 located in the trailer owned by the Utility but leased to KEI and Weiler

¹⁰⁶ Response to Citizens' Interrogatory 49.

¹⁰⁷ Response to Citizens' Interrogatory 17.

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1 Engineering, then the copier is most likely shared with KEI, not KWRU. It would
2 be physically impossible for KWRU's employees to use the copier, since they do
3 not exist. While it might be appropriate to disallow the entire cost, I have
4 conservatively removed \$2,739 from test year expenses.

5 **Q. WHAT OTHER ADJUSTMENTS DO YOU RECOMMEND TO TEST**
6 **YEAR EXPENSES?**

7 A. I recommend several adjustments for expenses which should not be borne by
8 ratepayers. These are discussed below.

9 **Q. HAVE YOU MADE ANY ADJUSTMENT TO TRAVEL EXPENSES?**

10 A. Yes, I have. I have removed the entire \$19,106 in travel expenses for Mr. Smith
11 that the Company had recorded in Account 775-Miscellaneous Expenses. The
12 total travel expenses were broken down as \$6,000 paid to Green Fairways for 6
13 months lodging and a total of \$13,106 for rental cars and airplane fuel. According
14 to the Company, Mr. Smith's travel expenses are allocated on alternating months
15 to the Utility and to Key West Golf Course. I have seen no explanation of why
16 airplane fuel is allocated between the two Key West business ventures and not
17 also among the Illinois businesses which are on the other end of Mr. Smith's
18 Illinois to Florida Keys flights. For several reasons, I do not believe that these
19 expenses should be borne by ratepayers.

20 As Mr. Smith's wife owns a house on Stock Island, I see no need for the
21 Utility to be paying Mr. Smith's lodging expenses. Nor do I believe the Utility's
22 ratepayers should be paying for rental cars or aviation fuel. Mr. Smith is a partner

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1 in multiple business ventures, in Key West, Illinois, and San Francisco. If Mr.
2 Smith lived in the same city as this utility, ratepayers would not be asked to pay
3 for his travel expenses. The fact that his primary home and other businesses are
4 out of state should not cause any additional costs to be borne by the Company's
5 customers.

6 In his deposition, Mr. Smith indicated that the \$1,000 in monthly lodging
7 expenses were a holdover from a prior period when he paid lodging expenses. But
8 he still did not believe that the \$6,000 of lodging expenses charged to customers
9 should be removed:

10 Q. Just one other line of questioning. I am going to travel
11 expenses. It says, a total of \$6000 was recorded for lodging
12 expenses paid to Green Fairways. This was recorded for \$1000 a
13 month, for January through November 2006. I thought you said
14 you stayed at your wife's home.

15 A. Yes.

16 Q. How was that \$6000 calculated?

17 A. It is a carryover from when I used to come down and stay in a
18 hotel or stay at locations that was owned by Green Fairways.
19 When my wife bought a house, it just continued, the lodging
20 expense.
21

22 Q. But the \$6000 should be removed, then?

23 A. I don't think so.

24 Q. Why?

25 A. There are expenses for me to stay down here. It is not
26 cheap.¹⁰⁸
27

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¹⁰⁸ Smith Deposition, pp. 52-3.

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1 I disagree. I recommend that these expenses be removed. The table below
2 itemizes the expenses incurred by Mr. Smith and his wife to travel to Key
3 West/Stock Island.

4

Smith Travel Charges 2006					
Date	Island City Flying Service	Lodging Driftwood #4	Reimburse Smith Airplane Fuel and Rental Car	Gwenn Smith Dinner	Total
01/2006	\$ 1,259	\$ 1,000			\$ 2,259
					\$ -
03/2006	\$ 195	\$ 1,000	\$ 2,690	\$ 249	\$ 4,134
03/2006			\$ 1,885		\$ 1,885
05/2006		\$ 1,000	\$ 3,578		\$ 4,578
06/2006	\$ 165				\$ 165
07/2006		\$ 1,000			\$ 1,000
09/2006		\$ 1,000			\$ 1,000
10/2006					\$ -
12/2006		\$ 1,000	\$ 2,623		\$ 3,623
	\$ 360	\$ 6,000	\$ 10,775	\$ 249	\$ 18,643

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Source: Response to Citizens' POD 28 and Staff Audit Request 25.

15

16 **Q. DID THE COMPANY SUPPLY INVOICES IN SUPPORT OF THE**
17 **TRAVEL EXPENSES OF MR. SMITH?**

18 A. Attached as Schedule 12 is the support provided by the Company for Mr. Smith's
19 travel expenses in response to Citizens' POD 28 and Staff Audit Request 25. As
20 shown, there were no invoices or receipts associated with the amount paid to Mr.
21 Smith for his \$6,000 of lodging expenses. In addition, in support of his fuel and
22 rental car expenses, Mr. Smith provided hand written documents supporting

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1 charges for \$2,691, \$1,885, \$3,578, and \$2,623.¹⁰⁹ In addition, Mr. Smith
2 submitted a hand written request for a \$249 charge related to a dinner apparently
3 paid for by Mrs. Smith, shown on page 14 of this Schedule. Supporting
4 documentation was provided for the three charges from Island City Flying
5 Service, Inc.

6 **Q. HAS THE COMMISSION ALLOWED TRAVEL EXPENSES OF THIS**
7 **NATURE IN PAST PROCEEDINGS?**

8 A. No, it has not. In a case involving BFF Corp. the Commission specifically
9 disallowed travel costs for a utility owner to travel from Miami to Ocala. The
10 Commission found:

11
12 The utility requested \$ 6,800 annually for an officer's salary. This
13 request was based on the owner's travel time from Miami to Ocala
14 at an estimated 40 hours a year plus \$ 800 annually for travel,
15 meals, and lodging and 20 hours a year for a review of the books
16 and records. The hourly rate requested was \$ 100 per hour.

17
18 We do not believe the customers of the utility should be
19 responsible for the owner's travel time to and from work. We have
20 allowed transportation expense in the past; however, this expense
21 was for travel through the service area and to and from meetings
22 with regulatory agencies and to utility related seminars. Therefore,
23 we have disallowed the requested travel expenses for the owner of
24 \$ 4,800.¹¹⁰

25
26 **Q. ARE THERE ANY OTHER TRAVEL EXPENSES THAT YOU WOULD**
27 **LIKE TO ADDRESS?**

¹⁰⁹ Responses to Citizens' POD 28 and Staff Audit Request 25.

¹¹⁰ Florida Public Service Commission, Docket No. 010919-SU; Order No. PSC-02-0487-PAA-SU, April 8, 2002.

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1 A. Yes. There were several other expenses included in the travel category that
2 deserve close scrutiny. They include expenses for reimbursements for the
3 purchase of a vehicle for the Utility (that has no employees to drive them) that
4 was driven to Key West from Illinois. I question these expenses for several
5 reasons.

6 First, the Company has not demonstrated that it could not have purchased
7 a similar vehicle without incurring the travel plus other costs incurred to drive this
8 vehicle from Illinois to Stock Island. One invoice was for \$598 for which \$598
9 was paid, another invoice was for \$445 for which \$500 was paid, and a third
10 invoice for \$211 was paid in full. Another charge of \$500 was paid for personal
11 services for finding the truck which was promised by WLS [William L. Smith].
12 Interestingly, Mr. Chris Johnson approved the payment by the Utility for this
13 service as well as the repairs on the vehicle driven from Illinois. There is a final
14 charge in this account which I recommend be disallowed. The amount is \$716
15 charged to KWRU by Chris Johnson for Southernmost Motel of \$677, a Utility
16 lunch of \$17, and charges for an MSN dial up account that was cancelled of \$22.
17 In total these charges amount to \$2,525.

18 **Q. WHAT IS YOUR RECOMMENDATION CONCERNING THE \$21,631**
19 **TRAVEL AND AUTO EXPENSES THAT YOU HAVE JUST DISCUSSED?**

20 A. I recommend that all of these expenses be disallowed. The amounts charged to
21 the Utility by Mr. Smith are excessive and unsupported. Furthermore, as
22 explained above, if Mr. Smith's primary residence were in Key West or Stock

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1 Island, these costs would not be incurred. In addition, the Company has provided
2 no support for the dinner expense of \$249 for Mrs. Smith. Regarding the costs
3 incurred to drive a vehicle from Illinois to Key West and the other miscellaneous
4 charges of Mr. Chris Johnson, I recommend disallowance of these as well. The
5 Company has not demonstrated that these expenses were incurred for the benefit
6 of its customers.

7 **Q. WHAT IS YOUR RECOMMENDATION REGARDING TELEPHONE**
8 **CHARGES?**

9 A. I recommend that the telephone charges not directly related to the Utility's
10 business be removed from Account 775-Miscellaneous. The Utility has included
11 \$13,814 in telephone charges in this account. Of this amount, only \$6,306 relates
12 to Bellsouth charges for sewer customer service calls and for telephone service in
13 KWRU's trailer. The remaining \$7,508 is for telephone charges for wireless
14 services. These wireless services appear to be related to Mr. Bart Smith, Mr.
15 Alexander Smith, and Ms. Leslie Johnson, all of whom are children of Mr. Smith.
16 None of these children are employed by the Company or the affiliates that work
17 for the Utility.

18 In addition, according to the Staff Audit, the remainder of these telephone
19 charges are associated with Mr. Carter's cellular phone and telephone purchases.
20 As Mr. Carter is employed by KWGC, any cellular phone charges should be
21 charged to that Company. The Utility pays a management fee of \$8,000 a month
22 to KWGC—Mr. Carter's cellular phone charges should be included as part of the

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1 management fee. There should be no other costs charged to the Company
2 associated with the management services provided by KWGC. Unfortunately,
3 there are no contracts between the Company and KWGC which govern the
4 services provided to the Company by this affiliate.¹¹¹ In the absence of a
5 contractual arrangement which sets forth the costs to be charged to the Utility, I
6 recommend that the charges for Mr. Carter's phone be disallowed.

7 In total, I recommend a disallowance of \$7,508 in miscellaneous expenses
8 which have not been supported by the Company.

9 **Q. HAVE YOU MADE AN ADJUSTMENT TO THE COMPANY'S**
10 **EXPENSES FOR POLITICAL CONTRIBUTIONS?**

11 A. Yes, I recommend that the Commission disallow \$1,023 in expenses incurred by
12 the Company related to a fund raiser for Charlie Crist's gubernatorial campaign.
13 As noted in the Staff Audit report, conformance with the NARUC Uniform
14 System of Accounts (USOA) requires that these expenses be booked below-the-
15 line and therefore should not be charged to ratepayers.

16 Commission Rule 25-30.115(1), Florida Administrative Code,
17 requires water and wastewater utilities to maintain accounts and
18 records in conformity with the 1996 National Association of
19 Regulatory Utility Commissioners (NARUC) Uniform System of
20 Accounts (USOA) adopted by the National Association of
21 Regulatory Utility Commissioners. The USOA prescribes that
22 "expenditures for the purpose of influencing public opinion with
23 respect to the election or appointment of public officials... should
24 be charged to Account 426, Miscellaneous Non-Utility Expense, a
25 below-the-line account.
26

¹¹¹ Response to Citizens' POD 29.

PUBLIC VERSION

1 Consistent with the Staff's Audit Finding No. 16, I recommend that \$1,203 in
2 expenses related to the fund raiser be booked below-the-line and not charged to
3 ratepayers. The amounts are as follows: \$55 from Account 720-Materials and
4 Supplies, \$63 from Account 775-Miscellaneous and \$1,085 from Account 760-
5 Advertising.¹¹²

6 **Q. WHAT IS YOUR NEXT ADJUSTMENT?**

7 A. The next adjustment concerns the Company expenses for advertising/public
8 relations expenses. According to the Company's response to Citizens'
9 Interrogatory 20, the costs charged to advertising included:

10 The amounts included in account 760-Advertising were principally
11 for the work of William Barry and are related to public relations
12 rather than advertising. Certain public relations activities,
13 including door hanging, letters to the editor, etc. were published,
14 but there was no "advertising". The 2006 general ledger, as well as
15 all other years, has itemization of charges (908310000 account
16 number).¹¹³

17 Most of the expenses included in the advertising account relate to charges
18 from Mr. William Barry. Mr. Barry labels himself as a spokesperson for KW
19 Resort Utilities Corporation. In his deposition, Mr. Barry explained that he "is a
20 media consultant, that he does media relations and he is a spokesperson in the
21 community."¹¹⁴ He described his work with the Company as follows:

22 I am the spokesperson for the company. In that capacity,
23 communicate with the press when they have questions or when we
24 have press releases or when there is a presentation to be given to
25

¹¹² Staff Audit, p. 33.

¹¹³ Response to Citizens' Interrogatory 20.

¹¹⁴ Barry Deposition, p. 3.

PUBLIC VERSION

1 the County Commission or public meeting concerning the utility
2 company. I would do that on behalf of the company.¹¹⁵
3

4 Although Mr. Barry is supposed to be an independent contractor and own
5 his own company, he periodically writes letters on the letterhead of the Utility, as
6 shown on Schedule 13. In one instance, Mr. Barry sent a letter in 2005 to the
7 South Florida World Wildlife Fund responding to a radio interview Mr. Barry
8 heard. The letter responds to a statement about the infrastructure needed to
9 connect to the Utility's vacuum sewer system. The next document in the
10 schedule is a press or news release which begins "My name is Bill Barry...." but
11 is signed by Bill Smith, President of the Utility and addresses the political
12 struggle for wastewater funds and the Utility's bid to provide service to other
13 areas in the Florida Keys. The next letter is to Commissioner Dixie Spehar in
14 defense of the instant rate increase request and its relationship to the AWT.
15 Again the letter is on the letterhead of the Utility, but is signed by Mr. Barry.

16 In response to Citizens' Interrogatory 20, the Company provided examples
17 of the work performed by Mr. Barry in his capacity as a spokesperson for the
18 Utility. I have attached as Schedule 13 to my testimony several examples of the
19 work product of Mr. Barry. As shown in this exhibit, the costs incurred by Mr.
20 Barry are designed to enhance the public opinion of the Company.

21 Similar to the items discussed above, the documents contained in Schedule
22 14 are designed to enhance the publics' opinion of the Company. For example, as
23 shown on page 1 of the schedule, the Company's newsletter "Customer Pipe

¹¹⁵ Ibid., p. 5.

PUBLIC VERSION

1 Line” attempts to persuade its readers that the Company has the lowest monthly
2 sewer bill in Monroe County and the least expensive hook-up fees in the Keys.
3 Page 5 is an opinion piece written by Mr. Barry that extols the benefits of the
4 vacuum sewer system installed by KWRU: “Our Monroe County government
5 leadership made the best choice for Stock Island property owners with their
6 selection of a vacuum system. FCAA Executive Director Jim Reynolds (an
7 engineer) also agree that a vacuum system can be an efficient and effective choice
8 for wastewater collection.”

9 More recently, as shown on pages 11 and 12 of this schedule, Mr. Barry
10 has attempted to refute though newspaper articles filings made in the rate case.
11 Again, these are attempts to influence public opinion; unfortunately the
12 information written by Mr. Barry is not always accurate.

13 **Q. WHAT HAS THE COMMISSION FOUND CONCERNING SPENDING**
14 **RELATED TO PUBLIC RELATIONS?**

15 A. The Commission has typically disallowed expenses that are public relations
16 oriented, finding that they benefit stockholders, not customers. When discussing
17 the inclusion of membership dues and contributions in a utility’s test year
18 expenses that are public relations oriented, the Commission found:

19 We acknowledge that some benefits may be accrued as a result of
20 these expenses. However, we agree with OPC that costs related to
21 contributions and membership dues, which are public relations
22 oriented, should be disallowed. These costs serve to improve the
23 image of the company, resulting in a direct benefit to the utility's
24 shareholders, not to the customers. This treatment has been
25 consistently applied by the Commission, as evidenced by Orders
26 Nos. PSC-93-0301-FOF-WS at 19-20 and PSC 96-1320-FOF-WS

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1 at 151-153, which Orders were officially recognized in this
2 proceeding.¹¹⁶
3

4 In a large water and wastewater case involving Southern States Utilities,
5 Inc., the Commission made several findings on what was appropriate to charge
6 customers as it related to public relations-related expenses.

7 Mr. Ludsen disagreed with OPC that a public relations retainer is
8 generally not a proper charge for rate case expense. Although he
9 did not know specifics about the charge, Mr. Ludsen stated that the
10 uniform rate investigation benefitted this case because of broader
11 customer input. Mr. Ludsen did not think that SSU was trying to
12 enhance its image, but instead trying to inform customers through
13 brochures about the issues in the case.

14 When asked about legislative charges from the Messer Vickers law
15 firm, Mr. Ludsen could not explain to what those related. He
16 agreed, in general, that legislative expenses should not be charged
17 to customers. Specifically, Mr. Ludsen agreed that charges from
18 Landers and Parsons for preparing testimony for a Senate hearing
19 should be removed.

20 Mr. Ludsen's response to why open houses with customers, in
21 addition to the Commission hearings, should be charged to
22 customers was that it was a benefit to the case. If it benefitted the
23 case, then it benefitted the customers. He did admit that those open
24 houses were not required by the Commission.

25 ...

26 ...

27 We believe that if SSU sees a need to inform its customers or the
28 press about the issues in the case beyond what our rules require,
29 then those expenditures must be borne by SSU, not the customers.
30 Accordingly, all charges related to telemarketing, public relations,
31 uniform rate bill inserts, mailings and door hangers, cellular
32 telephone bills and bus transportation shall be removed. Mr.
33 Ludsen was unable to justify why a banquet or lunch was
34 necessary and reasonable; accordingly, this amount shall be

¹¹⁶ Florida Public Service Commission, United Water Florida Inc., Docket No. 960451-WS PSC-97-0618-FOF-WS, May 30, 1997.

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1 removed. As agreed to by Mr. Ludsen, any legislative or lobbying
2 charges shall also be removed.¹¹⁷

3
4 This order provides an excellent analysis of the types of public relations
5 expenses that should not be charged to customers.

6 Another order, involving United Telephone Company of Florida, also
7 explains the Commission's policy of not requiring customers to pay for public
8 relations and/or image enhancement advertising.

9
10 United has included intrastate institutional or image advertising
11 costs of \$ 848,000 in its proposed test year operating expense. The
12 Company asserts that LECs today are facing various forms of
13 competition and advertising is an effective tool to deal with it.
14 United is receiving payments from UTLD to compensate for the
15 many tangible and intangible benefits it receives from the
16 Company. United contends that, since the ratepayer is being
17 compensated through the payment for the value of United's name,
18 logo and reputation, it is only fair that the ratepayer pay for the
19 expenditures necessary to maintain this value.

20
21 OPC does not agree with United's argument; OPC asserts that it is
22 flawed and a misunderstanding of the UTLD docket. The
23 compensating payment was primarily to compensate United for
24 marketing and operation benefits derived by UTLD. OPC
25 recommends that we continue our long-standing, well reasoned
26 policy of assigning the costs of institutional or image advertising to
27 the shareholder.

28
29 We agree with OPC that institutional or image advertising benefits
30 the nonregulated portions of the business to a greater extent than
31 the regulated operations and that the UTLD compensating payment
32 is for benefits already funded by the ratepayers. We will continue
33 our policy of excluding institutional or image advertising from the
34 cost of service.¹¹⁸

¹¹⁷ Florida Public Service Commission, Southern States Utilities, Inc. Docket No. 950495-WS; Order No. PSC-96-1320-FOF-WS, October 30, 1996.

¹¹⁸ Florida Public Service Commission, United Telephone Company, Docket No. 891231-TL, 891239-TL; Order No. 24049, January 31, 1991.

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Q. WHAT IS YOUR RECOMMENDATION CONCERNING THE COSTS CHARGED TO ADVERTISING EXPENSES?

A. I recommend that the Commission disallow all of the expenses charged to advertising expenses because, as the Utility admitted, they are related to public relations functions. This amounts to \$27,738. However, as noted above, I already recommended that \$1,085 be removed from the advertising account because it was related to political contributions. Therefore, the adjustment for advertising expenses related to public relations is \$26,653.

Q. WHAT IS THE NEXT EXPENSE ACCOUNT THAT YOU EXAMINED?

A. I examined the expenses included in the account Miscellaneous Expenses. There are several expenses included in this account that I do not believe should be recovered from customers. The first two expenses relate to the Company paying the Monroe County Sheriff's office to serve notice to customers about the need to hook up to the Company wastewater system. During the test year the Company paid the Monroe County Sheriff's Department \$420 to hand deliver letters to KWRU customers that had not hooked up to the sewer system. (The County later refunded \$160 of this.) In addition, KWRU also paid Anderson Process Servers \$225 during the test year. In a newspaper article, it was reported that:

Sheriff Rick Roth... permanently stopped his office's practice of uniformed deputies hand-delivering business letters for private companies for \$20 a piece. Roth said he learned of the years-long practice only Wednesday, when the media questioned him about deputies delivering letters to some Stock Island residents from KW Resort Utilities....

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1 'I was uncomfortable that they were using the Sheriff's Office to
2 add strength,

3
4 Roth said Monroe County deputies hand-deliver summonses and
5 other legal documents for the Clerk of Court, but said he didn't
6 know his deputies were delivering non-legal items.

7
8 'It's not worth it.' he said. 'It's setting the wrong impression.'¹¹⁹

9
10 The Company's hiring of the Sheriff's office to deliver hook-up notices
11 was excessive and appears to be an attempt to intimidate its customers. The
12 Commission should not endorse such practices by utilities. It is counterproductive
13 and does not comport with providing good customer service.

14 The second expense that I recommend be disallowed is a \$100 donation to
15 the Rotary Club of Key West. As explained above, the Commission has
16 consistently disallowed such expenses because customers should be permitted to
17 decide which organizations they donate to, not the utility.

18 The third expense is \$61 paid to Blossoms in Paradise. It does not appear
19 that these charges are beneficial to ratepayers.

20 In total the amount that I recommend be removed from test year
21 miscellaneous expenses is \$646.

22 **Q. WHAT IS THE NEXT ADJUSTMENT THAT YOU RECOMMEND?**

23 A. I recommend that the Commission adjust chemical and purchased power expense
24 for the cost savings associated with the Company's efforts to refurbish its sewer
25 lines. Mr. Smith explained in his testimony the significant undertaking the
26 Company took to resleeve a substantial portion of its existing collection lines.

¹¹⁹ Key West Citizen, March 30, 2006, p. 1a.

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1 According to Mr. Smith, this effort was completed at the beginning of 2007 at a
2 cost of \$600,000. Mr. Smith explained:

3 The Utility's collection system is located in an area that is subject
4 to tidal influences and is relatively old. As such, not only has the
5 particular location of the facilities caused its degradation, but the
6 types of "soils" themselves and the age of the system, have
7 resulted in substantial infiltration for years within the Utility's
8 system. It has now reached a point where it is not only
9 substantially impacting the ability to properly treat effluent, but
10 also to utilize the treated effluent for reuse purposes. In addition,
11 because the infiltration is generally high in salt content, we were
12 told by our engineer that we could not proceed to AWT without
13 first fixing these infiltration problems, or the AWT system would
14 not work. Therefore, in 2006 the Utility began a project for re-
15 sleeving a substantial portion of the existing collection system
16 lines.¹²⁰
17

18 In response to Citizens' Interrogatory 51, the Company provided more
19 detail on the slip lining project:

20 In October 2006 KWRU completed a slip lining of its existing
21 Lincoln Gardens collection system which included, contractors
22 mobilization, camera and TV reports on gravity system to be re-
23 sleeved, slip line 6080 LF of 8 inch pipe with CIP liner, slip line
24 620 of 12 inch LF with CIP liner, reinstatement of 158 lateral
25 connections, 2160 LF of laterals needed to be slip lined and added
26 or replaced 200, 4 inch clean outs w/plastic meter box and lid.
27 Also, KWRU has a 3 year warranty on the work mentioned above.
28 \$565,615 was the cost of the Brian Inc. slip lining project.¹²¹
29

30 **Q. THE COMPANY INCLUDED \$600,000 OF COSTS ASSOCIATED WITH**
31 **RESLEEING ITS COLLECTION LINES. DID IT MAKE AN**
32 **OFFSETTING ADJUSTMENT FOR THE REDUCTION IN CHEMICALS**

¹²⁰ Smith Testimony, p. 2.

¹²¹ Response to Citizens' Interrogatory 51.

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1 **AND PURCHASED POWER EXPENSE THAT WOULD RESULT FROM**
2 **THIS EXPENDITURE?**

3 A. No, it did not. Citizens requested that the Company provide a quantification of
4 the cost savings associated with this project. Specifically, Citizens asked:
5 “Describe and quantify all cost savings resulting from the resleeving and explain
6 and show where these cost savings are reflected in the rate case.”¹²²

7 In its initial response to Citizens’ Interrogatory 51, the Company stated:
8 “Electrical and chemical costs will be lower since we are treating less wastewater;
9 however KWRU expenses will definitely increase when we start treating to
10 advanced wastewater treatment levels.” Citizens did not believe that the
11 Company’s answer was responsive, so we asked the Company to supplement its
12 response. In its supplemental response, the Company stated: “Electrical and
13 chemical costs will be lower since we are treating less wastewater; however
14 KWRU expenses will definitely increase when we start treating to advanced
15 wastewater treatment levels and for the additional customers which will begin
16 receiving service as a result of Code Enforcement.”¹²³ Citizens’ did not believe
17 that the Company’s supplemental answer was responsive to the question of
18 quantifying the cost savings associated with resleeving the sewer lines. In the
19 Company’s response to Citizen’s Second Motion to Compel, the Company gave
20 the following explanation:

21 However, by way of further response, Monroe County sought to
22 have all wastewater treatment facilities converted to AWT by

¹²² Citizens’ Interrogatory 51.

¹²³ Letter from John Wharton 11-20-2007.

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1 2010, and KW Resort Utilities by 2007. No cost saving analysis
2 was performed by the Utility, since AWT Conversion is a
3 requirement of a Monroe County Ordinances and any such analysis
4 would have been moot. While Monroe County may or may not
5 have performed such an analysis, the Utility believes that the
6 environmental concerns rather than cost savings is the driving
7 force in the Ordinances enacted.¹²⁴

8
9 Although AWT conversion was required by Monroe County, there was no
10 requirement that the collection system be resleeved. However, it was apparently
11 necessary in order to allow for the reuse to be used by KWGC and the Monroe
12 County Detention Center. Regardless of what caused the resleeving of the
13 collection system, the fact remains that chemical and electric costs will be
14 reduced as a result of the resleeving. It would be a violation of the matching
15 principle to include the costs of the resleeving in rate base without the offsetting
16 reduction to expenses. Unfortunately, the Company did not make such an
17 adjustment, nor did it attempt to do so as a consequence of Citizens' request.

18 The Commission consistently reduces chemical and purchased power
19 expenses when a utility has excessive infiltration and inflow. Therefore, it would
20 only be logical to reduce the same expenses when the Company has expended
21 considerable amounts to reduce the amount of infiltration and inflow. Because the
22 resleeving was not complete until the end of 2006, the Company's test year
23 expenses are overstated relative to what can be expected on a going forward basis,
24 all else being equal. Even if expenses are expected to increase due to the
25 conversion to AWT, it is necessary to adjust test year expense to reflect the lower

¹²⁴ KW Resort Utilities' Response to Citizens' Motion to Compel KWR to Respond to OPC's First Set of Interrogatories and PODs and Second Set of Interrogatories and PODs; and Motion for an Extension of Time to Prefile Testimony or Leave to File Supplemental Testimony, December 3, 2007.

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1 level of infiltration and inflow. Unfortunately, I have been unable to develop an
2 appropriate adjustment at this time

3 **Q. WHAT PROFORMA ADJUSTMENT DID THE COMPANY PROPOSE**
4 **CONCERNING THE OPERATING COSTS ASSOCIATED WITH AWT?**

5 A. Although not discussed in any detail in its filing, the Company is proposing to
6 increase test year expenses by \$177,583 for “Adjustments to AWT Level
7 Treatment.”¹²⁵ This consists of \$46,518 for Purchased Power; \$112,341 for
8 Chemicals; and \$18,724 for Sludge Hauling.

9 **Q. WHAT INFORMATION DID THE COMPANY PROVIDE IN SUPPORT**
10 **OF THESE ADJUSTMENTS?**

11 A. There was no documentation included with the MFRs and there was only a brief
12 discussion by Mr. Smith as to the need to increase test year expenses. The
13 Company failed to provide any discussion of how the amount of additional
14 expenses was derived.

15 **Q. DID CITIZENS REQUEST SUPPORTING INFORMATION FOR THESE**
16 **PROFORMA ADJUSTMENTS?**

17 A. Yes, it did. However, the Company referred Citizens to its response to Citizens’
18 POD 2. In this response there was a one page word document with a memo from
19 Mr. Ed Castle to Mr. Doug Carter. This is shown on Schedule 15. The
20 documentation supplied in this response was a Memorandum from Mr. Ed Castle
21 to Mr. Doug Carter which contained the following:

¹²⁵ MFRs, Schedule B-3.

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I have made the assumption that the flows will increase to 400,000 GPD since it looks like the trailer parks are finally going to connect. Under that assumption, the monthly budget numbers calculate out as shown below. Call me if you have questions.¹²⁶

Cost Category	AWT Level Treatment
Electricity	\$15,650
Chemicals	\$13,592
Sludge Hauling	\$3,183

Interestingly, the Company’s proforma adjustment assumes that the plant flows will be 400,000 GPD. This compares to test year flows of 287,000 GPD. Therefore, the Company assumptions on the level of electricity, chemicals, and sludge hauling expenses assume a higher level of flow than experienced during the test year. If the Commission were to use this assumption, there would be a mismatch between the test year proforma level of expenses and the test year level of revenue. The Company’s calculations overstate the level of expense increase associated with just the conversion to AWT.

Q. WHAT WOULD BE THE CORRECT ADJUSTMENT?

A. The correct adjustment would only account for the increased costs associated with processing the wastewater under AWT standards—not costs associated with both AWT standards and increased flow beyond the test year.

Q. IN YOUR EXAMINATION OF THE DOCUMENTS ASSOCIATED WITH THIS PROFORMA ADJUSTMENT DID YOU FIND ANYTHING ELSE UNUSUAL?

¹²⁶ Response to Citizens’ POD 2.

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1 A. Yes. As discussed earlier, the Company included a mark-up of 30% on the
2 chemicals and sludge hauling expenses used in its proforma adjustment.
3 Apparently, the Company believes that because these products are purchased
4 from its affiliate, Keys Environmental, Inc., a mark-up over cost of 30% is
5 warranted. I disagree. If the Utility were providing this service itself, there would
6 be no mark-up over cost. There is simply no reason for this mark-up.

7 **Q. HAVE YOU ADJUSTED THE AMOUNT OF THE COMPANY'S**
8 **PROPOSED AWT EXPENSES TO BRING THEM TO THE TEST YEAR**
9 **FLOW LEVEL OF EXPENSES?**

10 A. Yes. I have estimated what the revised level of expenses would be if one were to
11 use the test year flows of 287,000 GPD and I have also removed the 30% mark-
12 up. To develop my adjustment, I used the Company's estimate and assumed that
13 each component was a direct function of the flow level. As shown on Schedule
14 15, I divided the proposed AWT expense amount by the 400,000 GPD assumption
15 used by the Company to arrive at an expense amount for each category on a per
16 GPD basis. I then multiplied this GPD amount by the test year level of flow to
17 arrive at the amount of AWT increased expenses at test year flows. Unless this
18 adjustment is made, there would be a mismatch between test year expenses and
19 test year revenue. The consequence of this mismatch would be to overstate the
20 amount of rate increase needed by the Company. As shown on Schedule 15, my
21 adjustment amounts to \$211,517, or \$109,705 less than the Company's proposal.
22 Removing the excessive mark-up from this adjustment reduces the proforma

PUBLIC VERSION

1 adjustment by another \$33,344. Therefore, the Company's proforma adjustment
2 should be reduced by \$143,048.

3 **Q. HOW MUCH IS THE COMPANY REQUESTING IN RATE CASE**
4 **EXPENSE?**

5 A. The Company is requesting rate case expenses of \$200,000.

6 **Q. IN YOUR OPINION, WAS THIS RATE CASE COMPLEX? AND IF SO,**
7 **COULD YOU EXPLAIN THE CIRCUMSTANCES THAT MADE THIS**
8 **CASE COMPLEX?**

9 A. I consider this case to be complex due to many factors, including but not limited
10 to:

- 11 • the significant and questionable affiliate relationships of the Company;
- 12 • the Grand Jury investigation into the relationships and substantial money
13 transfers between the Company, its numerous affiliates, and other entities;
- 14 • the fact that the Commission has not established rates since 1985 for
15 KWRU; and
- 16 • the necessity of examining the capital investments and associated dollars
17 for the period since the Commission last established rate base in 1985.

18 **Q. PLEASE DESCRIBE THE AMOUNT OF DISCOVERY CITIZENS**
19 **PROPOUNDED TO KWRU.**

20 A. Due to the extensive nature of this case and the fact that it has been over 20 years
21 since the Company's last rate case, Citizens requested additional interrogatories
22 and PODs. The Commission granted 300 interrogatories and 150 PODs to

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1 Citizens in its “Amended Procedural Order.”¹²⁷ To date, Citizens has propounded
2 249 interrogatories and 115 PODs, including all subparts, in four separate sets of
3 discovery. At the time this testimony was filed, the Company had responded to
4 the first three sets. In addition, the Company, OPC, and Staff participated in
5 depositions on November 27 and 28.

6 **Q. HAS THE OFFICE OF THE PUBLIC COUNSEL ENCOUNTERED**
7 **DIFFICULTY WITH THE COMPANY’S RESPONSES TO DISCOVERY**
8 **THAT WOULD INCREASE RATE CASE EXPENSE?**

9 A. Yes. The Company has repeatedly disregarded the Commission’s procedural
10 orders and has provided responses to Citizens’ discovery that were both late and
11 non-definitive. Because of the Company’s lack of responsiveness to its discovery,
12 Citizens has had to resort to filing three motions to compel concerning its first and
13 second sets of discovery.

14 **Q. PLEASE EXPLAIN HOW THE COMPANY HAS DISREGARDED THE**
15 **COMMISSION’S PROCEDURAL ORDERS.**

16 A. On September 17, Citizens filed its First Set of Interrogatories and First Request
17 for Production of Documents. As a result of the Commission’s Amended
18 Procedural Order, on September 27, Citizens filed its Amended First Set of
19 Interrogatories and First Request for Production of Documents. At that time
20 Citizens also provided to the Company a copy of the Amended First Set of
21 Interrogatories and Request for Production of Documents that contained the

¹²⁷ Order PSC-07-0786-PCO-SU First Order Revising Order Establishing Procedure; Order Granting in Part and Denying in Part OPC’s Motion to Permit Additional Interrogatories and PODs; and Order Granting in Part and Denying in Part the Utility’s Motion for Protective Order.

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1 strikeouts and edits. On October 5, Citizens filed its second set of discovery.

2 On October 8, the Company filed its Request for Extension of Time,
3 Request for Clarification, and Objection to OPC’s Amended First Request for
4 Production of Documents and First Set of Interrogatories. Citizens responded on
5 October 15, by filing its Response to KW Resort's Request for Extension of Time,
6 Request for Clarification, and Objections to OPC's Amended 1st Request for
7 PODs and 1st Set of Interrogatories and Citizens' Motion to Compel.

8 The Commission issued its Second Amended Procedural Order on
9 October 25, addressing discovery disputes and amending the procedural dates of
10 the proceeding.¹²⁸ In the Second Amended Procedural Order, the Commission
11 approved the agreement reached between Citizens and the Company whereby
12 Citizens allowed the Company four extra days to file its responses to the
13 uncontested portion of the initial discovery, if the Utility agreed to allow Citizens
14 four extra days in which to file its testimony and exhibits. KWRU was to submit
15 responses to Citizens’ initial set of discovery for which there was no objection on
16 October 26. Further, the Second Amended Procedural Order provided that all
17 contested discovery would be responded to by November 1. In addition, the
18 Company was ordered to provide all information that is in its possession, custody,
19 or control; state in its responses instances where information could not be
20 provided because no such costs or charges exist; and provide information on

¹²⁸ Second Order PSC-07-0851-PCO-SU Revising Order Establishing Procedure; Granting in Part and Denying in Part K W Resort's Request for Extension of Time, Request for Clarification, and Objection to OPC's Amended 1st Request for PODs and 1st Set of Interrogatories; and Granting in Part and Denying in Part OPC's Motion to Compel.

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1 expenses as far back as 2002.

2 On October 26, KWRU filed its responses to the uncontested portion of
3 Citizens' initial discovery; however, many of these responses were not complete.
4 Although the Company filed responses to Citizens' First Set of PODs by the
5 agreed upon date, every answer to the PODs (1-62) contained the statement, "The
6 documents will be produced to the extent that they exist." No documents were
7 provided on that date.

8 Additionally, 27% of the responses to Citizens' First Set of Interrogatories
9 had problems. There were seven subparts of the Interrogatories that received no
10 response. In addition, answers to 19 different interrogatory subparts indicated that
11 documents responsive to the interrogatory would be produced in the POD
12 responses, but no references were given as to the specific POD providing the
13 response. As mentioned earlier, the documents in response to the PODs were not
14 provided as well. Another 19 of the responses were non-definitive or incomplete.
15 Therefore, on October 31, OPC filed a Motion to Compel KW Resort Utilities
16 Corp. to Respond to OPC's First Set of Production of Documents and Request for
17 Extension of Time to File Prefiled Testimony.

18 The Utility had 38 days to respond to Citizen's First Set of Production of
19 Documents. KWRU failed to provide any reason why the documents requested
20 had not been produced, nor did the Utility contact OPC indicating that its
21 responses would be late. After deliberations between the Company and OPC, the
22 Company finally provided the documents on November 6, and on November 7 the

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1 Company delivered further documents in response to OPC's PODs 50 and 60 and
2 Interrogatory 78(k).

3 As the Company's response to OPC's motion indicates, it did not provide
4 the documents as Citizens requested, but chose to rely on its interpretation of the
5 Florida Rules of Civil Procedure and instead allow an inspection of the documents
6 at its place of business. On November 8, the Commission found in its "Third
7 Amended Procedural Order" that if the Company was not going to honor
8 Citizens' instructions, it should have contacted OPC to work out other
9 arrangements.¹²⁹ Citizens and Staff were also granted an extra three days to file
10 their testimony and exhibits due to the Company's delay in producing the
11 documents.

12 In the meantime, the Company filed supplemental responses to Citizens'
13 First Set of Interrogatories 16 and 28 on November 1, and filed its responses to
14 Citizens' Second Set of Interrogatories and PODs on November 6.

15 After evaluating the Company's responses to its first and second sets of
16 discovery, on November 13, Citizens sent the Company an email attempting to
17 work out further discovery disagreements directly with the Company rather than
18 filing an additional motion to compel. A copy of this email and attachment are
19 included hereto as Schedule 16. The email requested the Company to respond by
20 close of business the next day. On November 14, Citizens were informed that
21 because the Company's attorney Mr. Wharton was ill, an internal KWRU

¹²⁹ Third Order PSC-07-0901-PCO-SU Revising Order Establishing Procedure; Granting in Part and Denying in Part OPC's Motion to Compel and Request for Extension of Time to File Prefiled Direct Testimony.

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1 conference call would be set up for November 15 to address the issues. After not
2 hearing from KWRU on November 15, OPC called KWRU on November 16 to
3 determine the status of the overdue discovery.

4 On the afternoon of Friday, November 16, Citizens were told that KWRU
5 would actually meet internally on Monday, November 19 and respond to OPC on
6 November 20. On November 20, KWRU produced some documents responsive to
7 Citizens' discovery, but it did not produce all the required information. As a
8 result, the outstanding responses to Citizens' First Set of Interrogatories and
9 PODs were 31 days late, and the outstanding responses to Citizens' Second Set of
10 Interrogatories and PODs were 21 days overdue. Therefore, Citizens had no
11 alternative but to file its Motion To Compel KW Resort Utilities Corp. to
12 Respond to OPC's First Set of Interrogatories and PODs and Second Set of
13 Interrogatories and PODs; Motion for an Extension of Time to Prefile Testimony
14 or Leave to File Supplemental Testimony on November 26.

15 In its motion, OPC detailed those discovery requests that were deficient
16 and the reasons thereof. In addition, Citizens brought to the Commission's
17 attention both the Company's failure to provide affidavits for the interrogatories
18 and identify those persons responding to each interrogatory as instructed, and its
19 failure to follow the Commission's Procedural Order to provide some sequential
20 identification of the documents it provided in response to OPC's PODs. The
21 following day, the Company filed supplemental responses to Citizens'
22 Interrogatories 26(b), 34(e), and 34(f). The Commission issued its Fourth

PUBLIC VERSION

1 Amended Procedural Order on December 5, addressing Citizens' concerns,
2 ordering KWRU to provide further responses by December 10 and granting
3 Citizens and Staff seven additional days to file their testimony and exhibits.¹³⁰

4 **Q. DO YOU AGREE WITH THE COMPANY'S COMPLAINT THAT THE**
5 **AMOUNT OF DOCUMENTS REQUESTED BY CITIZENS HAS BEEN**
6 **EXCESSIVE?**

7 A. No. The Company would have the Commission believe that this rate case is
8 simple. However, as I explained in my testimony earlier, there are numerous
9 issues that must be addressed. Therefore, given the complexity of this case, I do
10 not believe the number of documents requested was excessive.

11 **Q. DO YOU BELIEVE RATEPAYERS SHOULD BEAR THE COST OF THE**
12 **DEFICIENCIES IN THE COMPANY'S DISCOVERY?**

13 A. No, I do not. These costs should be borne by the Company's stockholders not
14 ratepayers.

15 **Q. ARE THERE OTHER PROBLEMS WITH THE COMPANY'S**
16 **REQUESTED RATE CASE EXPENSE?**

17 A. Yes. Citizens are recommending a rate decrease. There was no need for the
18 Company to file for a rate increase for its wastewater operations. Therefore, all of
19 the Company's requested rate case expense should be disallowed.

¹³⁰ Fourth Order PSC-07-0970-PCO-SU Revising Order Establishing Procedure; Granting in Part and Denying in Part OPC's Motion to Compel K W Resort to Respond to Discovery Requests; for all Discovery for which OPC's Motion to Compel is Granted, Utility to Respond by 12/10/07; Granting in Part and Denying in Part OPC's Request for Extension of Time to File Prefiled Direct Testimony; Denying OPC's Motion to File Supplemental Testimony.

PUBLIC VERSION

1 **Q. IS THERE PRECEDENT FOR DISALLOWING RATE CASE EXPENSES**
2 **IN FLORIDA?**

3 A. Yes, the Florida Public Service Commission has disallowed rate case expenses on
4 many occasions because it has found them to be imprudent. The Commission's
5 decisions on this issue are set forth in Order No. PSC-02-0593-FOF-WU. In that
6 order, it addressed Order No. PSC-98-1583-FOF-WS, issued November 25, 1998,
7 in Docket No. 971663-WS, where Florida Cities Water Company was seeking
8 recovery of court costs (and the rate case expense associated with the docket
9 filing). In that case the Commission found that the incurrence of rate case expense
10 was imprudent and denied the utility's request for recovery. Also, in Order No.
11 PSC-96-1320-FOF-WS, issued October 30, 1996, in Docket No. 950495-WS, the
12 Commission denied legal rate case expense of \$25,000 incurred for what it
13 deemed an imprudent appeal of an oral decision on interim rates. In addition, in
14 Order No. 18960, issued March 7, 1988, in Docket No. 861338-WS, the
15 Commission determined that expenditures for misspent time were imprudent and
16 reduced the requested rate case expense by \$32,500. Finally, in Order No. PSC-
17 02-0593-FOF-WU, issued April 30, 2002, the Commission found: "As discussed
18 above, it is the utility's burden to prove that its requested costs are reasonable.
19 We find that filing combined water and wastewater rate cases would have resulted
20 in material cost savings, and the customers should not be made to pay because
21 Aloha incurred imprudent rate case expense."

22

PUBLIC VERSION

1 **IX. Staff Audit Adjustments**

2

3 **Q. HAVE YOU ALSO MADE ADJUSTMENTS TO THE COMPANY'S**
4 **REVENUE REQUIREMENTS BASED UPON STAFF'S FINAL AUDIT**
5 **REPORT?**

6 A. Yes, I have. Staff filed its final audit report of KWRU on October 29, 2007.
7 Staff's audit resulted in 19 findings. In two instances, finding AF-6 Retirements
8 Related to Plant Proforma, and AF-8 CIAC, Staff's findings had no effect on the
9 Company's filing. In the case of nine findings, I concur with Staff's findings and
10 adopt their adjustments to the Company's revenue requirements. These include
11 audit findings: AF-1 Cost Study; AF-5 Offset to Land Entry; AF-7 Accumulated
12 Depreciation; AF-9 Temporary Cash Investments; AF-12 Office Expense; AF-13
13 Non-recurring Expenses; AF-15 Insurance – General Liability; AF-18 Permit
14 Fees for AWT; and AF-19 Beachcleaner Rental.

15 **Q. WOULD YOU EXPLAIN EACH OF THESE IN GREATER DETAIL?**

16 A. The first of these adjustments is AF-1 Cost Study. The last rate case order used a
17 test year of December 31, 1983, long before the current owner took over through
18 a stock purchase. Staff was not able to obtain supporting documentation for
19 \$2,137,961 of plant additions from 1984 to 1997. Unless the Company is able to
20 produce documentation in support of this amount, I recommend that the
21 Commission accept Staff's calculations which result in a reduction to average rate
22 base of \$972,446.53 and a reduction to depreciation expense of \$10,523.

PUBLIC VERSION

1 Staff AF- 5 Offset to Land Entry resulted in a reduction to average plant of
2 \$152,255, a reduction to average accumulated depreciation of \$71,274 and a
3 reduction to depreciation expense of \$6,765. This adjustment resulted from a
4 correction to an adjustment proposed by the Company.

5 Staff AF-7 Accumulated Depreciation resulted from the Company's
6 inconsistent implementation of Rule 25-30.140, F.A.C. I accept Staff's finding
7 that average accumulated depreciation should be increased by \$251,681, average
8 accumulated amortization should be increased by \$99,481 and depreciation
9 expenses increased by \$16,021.

10 Staff AF-9 Temporary Cash Investments stated "The Commission has
11 always excluded interest earning temporary cash investments from the working
12 capital because they already earn a return and to add a return on rate base is
13 duplicating that."¹³¹ I agree with Staff that the 13-month average Working Capital
14 in rate base be reduced by \$168,265.

15 In AF-13, the audit Staff found that Account 736-Contractual Services-
16 Other had an expense of \$1,290 to strip and wax the Utility's office trailer floor.
17 Amortizing this one-time non-recurring expense over five years results in an
18 annual amortization of \$258 and a deferred amount of \$1,032. Therefore, test
19 year expenses should be reduced by \$1,032.

20 Staff AF-15 Insurance – General Liability concerned the Utility's
21 inclusion of insurance finance charges in Account 757-Insurance. As Staff noted
22 in its report:

¹³¹ Staff Audit, p. 26.

PUBLIC VERSION

1 Commission policy has been to reduce operating expenses for
2 interest incurred due to late payments, on the grounds that the
3 expense is avoidable and that the Commission should not condone
4 the incurrence of unnecessary expenses. The Commission has
5 stated that it is inappropriate to require customers to pay for an
6 avoidable cost which should be borne by the utility owners. (Order
7 No. 2 1 137, Docket No. 87 1 262-WS7 issued April 27, 1989)¹³²
8

9 I agree with Staff's determination that Account 757 be reduced by \$701
10 attributable to these charges.

11 Staff AF-17 concerned the annual expense of \$2,400 the utility recorded in
12 Account 736-Contractual Services-Other allocated from Key West Golf Club for
13 use of a golf cart for the Utility at \$200 per month. According to the Staff's
14 auditors the invoiced amount paid by Key West Golf Club to Yamaha for March
15 2006 is \$6,034 for 85 golf carts. The invoiced amount for one golf cart for this
16 month is \$71. I agree with Staff that the Utility should pay its affiliate no more
17 than the market cost of the golf cart rental. As \$71 times 12 equals \$852,
18 expenses in Account 736 should be reduced by \$1,548.

19 Staff AF-18 Permit Fees concerned the Utility's recording of \$9,000
20 payable to the Florida Department of Environmental Protection. Of this total,
21 \$2,250 was for a permit renewal for the Company's class V injection wells and
22 \$3,000 for the renewal application review. I agree with Staff that these permit
23 renewal fees should be amortized over 5 years. The resulting increases of \$576 to
24 average plant in service, \$52 to average accumulated depreciation, \$104 to

¹³² Ibid. p. 32.

PUBLIC VERSION

1 depreciation expense, and a reduction of \$7,950 to taxes other than income are
2 shown on my Schedule 1.

3 Finally, Staff AF-19 Rental of Beachcleaner found that \$11,825 charged
4 to Account 742 - Rental of Equipment should have been capitalized as the charges
5 were applied to the purchase price of the equipment. I accept Staff's adjustments
6 of an increase of \$910 to average plant in service, an increase of \$493 to
7 accumulated depreciation, an increase of \$986 to depreciation expense, and a
8 decrease of \$11,825 to operating expenses.

9 **X. Revenue Requirement**

10

11 **Q. WOULD YOU PLEASE EXPLAIN THE REVENUE REQUIREMENT**
12 **THAT RESULTS FROM THE ADJUSTMENTS THAT YOU ARE**
13 **PROPOSING?**

14 A. Schedule 1 of my exhibit sets forth each of the adjustments that I recommend. As
15 shown on this Schedule, the revenue requirement impact of these adjustments
16 produces a rate reduction of \$827,062. This compares to the Company's requested
17 rate increase of \$601,684.

18 **Q. DOES THIS COMPLETE YOUR TESTIMONY PREFILED ON**
19 **DECEMBER 17, 2007?**

20 A. Yes, it does.

21

PUBLIC VERSION

APPENDIX I

KIMBERLY H. DISMUKES

QUALIFICATIONS

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Q. WHAT IS YOUR EDUCATIONAL BACKGROUND?

A. I graduated from Florida State University with a Bachelor of Science degree in Finance in March, 1979. I received an M.B.A. degree with a specialization in Finance from Florida State University in April, 1984.

Q. WOULD YOU PLEASE DESCRIBE YOUR EMPLOYMENT HISTORY IN THE FIELD OF PUBLIC UTILITY REGULATION?

A. In March of 1979 I joined Ben Johnson Associates, Inc., a consulting firm specializing in the field of public utility regulation. While at Ben Johnson Associates, I held the following positions: Research Analyst from March 1979 until May 1980; Senior Research Analyst from June 1980 until May 1981; Research Consultant from June 1981 until May 1983; Senior Research Consultant from June 1983 until May 1985; and Vice President from June 1985 until April 1992. In May 1992, I joined the Florida Public Counsel's Office, as a Legislative Analyst III. In July 1994 I was promoted to a Senior Legislative Analyst. In July 1995 I started my own consulting practice in the field of public utility regulation.

Q. WOULD YOU PLEASE DESCRIBE THE TYPES OF WORK THAT YOU HAVE PERFORMED IN THE FIELD OF PUBLIC UTILITY REGULATION?

PUBLIC VERSION

A. Yes. My duties have ranged from analyzing specific issues in a rate proceeding to managing the work effort of a large staff in rate proceedings. I have prepared testimony, interrogatories and production of documents, assisted with the preparation of cross-examination, and assisted counsel with the preparation of briefs. Since 1979, I have been actively involved in more than 180 regulatory proceedings throughout the United States.

I have analyzed cost of capital and rate of return issues, revenue requirement issues, public policy issues, market restructuring issues, and rate design issues, involving telephone, electric, gas, water and wastewater, and railroad companies. I have also examined performance measurements, performance incentive plans, and the prices for unbundled network elements related to telecommunications companies. In addition, I have audited the purchased gas adjustment clauses of three gas companies and the fuel adjustment clause of one electronic company in the State of Louisiana.

Q. WHAT IS YOUR EXPERIENCE CONCERNING COST OF CAPITAL?

A. In the area of cost of capital, I have analyzed the following parent companies: American Electric Power Company, American Telephone and Telegraph Company, American Water Works, Inc., Ameritech, Inc., CMS Energy, Inc., Columbia Gas System, Inc., Continental Telecom, Inc., GTE Corporation, Northeast Utilities, Pacific Telecom, Inc., Southwestern Bell Corporation, United Telecom, Inc., and U.S. West. I have also analyzed individual companies like Connecticut Natural Gas Corporation, Duke Power Company, Idaho Power Company, Kentucky Utilities Company, Southern New England Telephone Company, and Washington Water Power Company.

Q. HAVE YOU PREVIOUSLY ASSISTED IN THE PREPARATION OF TESTIMONY CONCERNING REVENUE REQUIREMENTS?

PUBLIC VERSION

- A. Yes. I have assisted on numerous occasions in the preparation of testimony on a wide range of subjects related to the determination of utilities' revenue requirements and related issues.

I have assisted in the preparation of testimony and exhibits concerning the following issues: abandoned project costs, accounting adjustments, affiliate transactions, allowance for funds used during construction, attrition, cash flow analysis, conservation expenses and cost-effectiveness, construction monitoring, construction work in progress, contingent capacity sales, cost allocations, decoupling revenues from profits, cross-subsidization, demand-side management, depreciation methods, divestiture, excess capacity, feasibility studies, financial integrity, financial planning, gains on sales, incentive regulation, infiltration and inflow, jurisdictional allocations, non-utility investments, fuel projections, margin reserve, mergers and acquisitions, pro forma adjustments, projected test years, prudence, tax effects of interest, working capital, off-system sales, reserve margin, royalty fees, separations, settlements, used and useful, weather normalization, and resource planning.

Companies that I have analyzed include: Alascom, Inc. (Alaska), Arizona Public Service Company, Arvig Telephone Company, AT&T Communications of the Southwest (Texas), Blue Earth Valley Telephone Company (Minnesota), Bridgewater Telephone Company (Minnesota), Carolina Power and Light Company, Central Maine Power Company, Central Power and Light Company (Texas), Central Telephone Company (Missouri and Nevada), Consumers Power Company (Michigan), C&P Telephone Company of Virginia, Continental Telephone Company (Nevada), C&P Telephone of West Virginia, Connecticut Light and Power Company, Danube Telephone Company

PUBLIC VERSION

(Minnesota), Duke Power Company, East Otter Tail Telephone Company (Minnesota), Easton Telephone Company (Minnesota), Eckles Telephone Company (Minnesota), El Paso Electric Company (Texas), Entergy Corporation, Florida Cities Water Company (North Fort Myers, South Fort Myers and Barefoot Bay Divisions), Florida Power and Light, General Telephone Company (Florida, California, and Nevada), Georgia Power Company, Jasmine Lakes Utilities, Inc. (Florida), Kentucky Power Company, Kentucky Utilities Company, KMP Telephone Company (Minnesota), Idaho Power Company, Louisiana Gas Service Company, Oklahoma Gas and Electric Company (Arkansas), Kansas Gas & Electric Company (Missouri), Kansas Power and Light Company (Missouri), Lehigh Utilities, Inc. (Florida), Mad Hatter Utilities, Inc. (Florida), Mankato Citizens Telephone Company (Minnesota), Michigan Bell Telephone Company, Mid-Communications Telephone Company (Minnesota), Mid-State Telephone Company (Minnesota), Mountain States Telephone and Telegraph Company (Arizona and Utah), Nevada Bell Telephone Company, North Fort Myers Utilities, Inc., Northwestern Bell Telephone Company (Minnesota), Potomac Electric Power Company, Public Service Company of Colorado, Puget Sound Power & Light Company (Washington), Sanlando Utilities Corporation (Florida), Sierra Pacific Power Company (Nevada), South Central Bell Telephone Company (Kentucky), Southern Union Gas Company (Texas), Southern Bell Telephone & Telegraph Company (Florida, Georgia, and North Carolina), Southern States Utilities, Inc. (Florida), Southern Union Gas Company (Texas), Southwestern Bell Telephone Company (Oklahoma, Missouri, and Texas), Sprint, St. George Island Utility, Ltd., Tampa Electric Company, Texas-New Mexico Power Company, Tucson Electric Power Company, Twin Valley-Ulen Telephone Company (Minnesota), United Telephone

PUBLIC VERSION

Company of Florida, Virginia Electric and Power Company, Washington Water Power Company, and Wisconsin Electric Power Company.

Q. WHAT EXPERIENCE DO YOU HAVE IN RATE DESIGN ISSUES?

A. My work in this area has primarily focused on issues related to costing. For example, I have assisted in the preparation of class cost-of-service studies concerning Arkansas Energy Resources, Cascade Natural Gas Corporation, El Paso Electric Company, Potomac Electric Power Company, Texas-New Mexico Power Company, and Southern Union Gas Company. I have also examined the issue of avoided costs, both as it applies to electric utilities and as it applies to telephone utilities. I have also evaluated the issue of service availability fees, reuse rates, capacity charges, and conservation rates as they apply to water and wastewater utilities.

Q. WHAT FUEL AUDITS HAVE YOU CONDUCTED?

A. I have conducted purchased gas adjustment audits of Louisiana Gas Company for the period 1971-2000, CenterPoint Energy Entex for the years 1971 through July 2001, and CenterPoint Energy Arkla for the years 1971 through December 2001. I have also audited the fuel adjust clause of Entergy Gulf States, Inc. for the period 1995-2004.

Q. HAVE YOU TESTIFIED BEFORE REGULATORY AGENCIES?

A. Yes. I have testified before the Arizona Corporation Commission, the Connecticut Department of Public Utility Control, the Florida Public Service Commission, the Georgia Public Service Commission, Louisiana Public Service Commission, the Missouri Public Service Commission, the Public Utilities Commission of Nevada, the Public Utility Commission of Texas, and the Washington Utilities and Transportation Commission. My testimony dealt with revenue requirement, financial, policy, rate

PUBLIC VERSION

design, fuel, cost study issues unbundled network pricing, and performance measures concerning AT&T Communications of Southwest (Texas), Cascade Natural Gas Corporation (Washington), Central Power and Light Company (Texas), Connecticut Light and Power Company, El Paso Electric Company (Texas), Embarq (Nevada), Florida Cities Water Company, Kansas Gas & Electric Company (Missouri), Kansas Power and Light Company (Missouri), Houston Lighting & Power Company (Texas), Lake Arrowhead Village, Inc. (Florida), Lehigh Utilities, Inc. (Florida), Louisiana Gas Service Company, Jasmine Lakes Utilities Corporation (Florida), Mad Hatter Utilities, Inc. (Florida), Marco Island Utilities, Inc. (Florida), Mountain States Telephone and Telegraph Company (Arizona), Nevada Bell Telephone Company, North Fort Myers Utilities, Inc. (Florida), Southern Bell Telephone and Telegraph Company (Florida, Louisiana and Georgia), Southern States Utilities, Inc. (Florida), Sprint of Nevada, St. George Island Utilities Company, Ltd. (Florida), Puget Sound Power & Light Company (Washington), and Texas Utilities Electric Company.

I have also testified before the Public Utility Regulation Board of El Paso, concerning the development of class cost-of-service studies and the recovery and allocation of the corporate overhead costs of Southern Union Gas Company and before the National Association of Securities Dealers concerning the market value of utility bonds purchased in the wholesale market.

Q. HAVE YOU BEEN ACCEPTED AS AN EXPERT IN THESE JURISDICTIONS?

A. Yes.

Q. HAVE YOU PUBLISHED ANY ARTICLES IN THE FIELD OF PUBLIC UTILITY REGULATION?

PUBLIC VERSION

- A. Yes, I have published two articles: "Affiliate Transactions: What the Rules Don't Say", Public Utilities Fortnightly, August 1, 1994 and "Electric M&A: A Regulator's Guide" Public Utilities Fortnightly, January 1, 1996.

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KW Resort Utilities Corporation
Summary of Adjustments

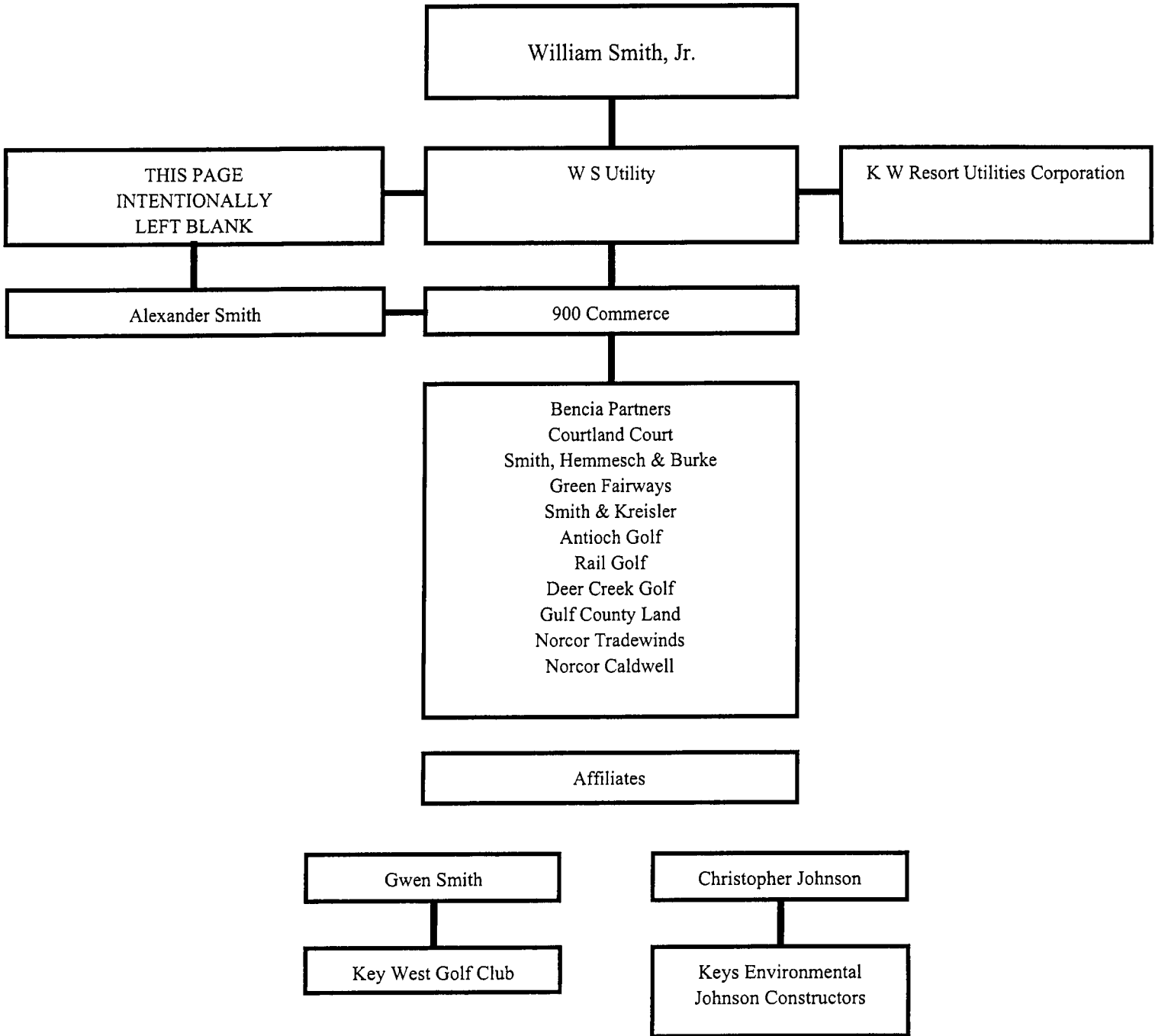
Description	Amount	Revenue Requirement Impact
<u>Affiliate-Related Rate Base Adjustments</u>		
Keys Environmental Hook-Up Fees	\$ (252,690)	\$ (22,155)
Reclassify Keys Environmental Expenses	\$ 51,663	\$ 4,530
Decommissionary of Jail Facilities	\$ (10,000)	\$ (877)
Green Fairways Jail Project Management Fee	\$ (32,198)	\$ (2,823)
Green Fairways SSI Project Management Fee	\$ (301,180)	\$ (26,406)
Smith, Hemmesch, and Burke Legal Fees	\$ (25,000)	\$ (2,192)
Mr. Johnson's Moving Expenses	\$ (8,602)	\$ (754)
Green Fairways AWT Management Fee	\$ (111,374)	\$ (9,765)
Johnson Constructors Charges for JAS	\$ (4,650)	\$ (408)
Johnson Constructors AWT Management Fee	\$ (30,000)	\$ (2,630)
<u>Other Rate Base Adjustments</u>		
Mr. London's Consulting Fees	\$ (32,500)	\$ (2,849)
White and Case Charges	\$ (27,500)	\$ (2,411)
Key West Citizen Advertisement	\$ (422)	\$ (37)
Non-Used and Useful Adjustment	\$ (1,324,595)	\$ (116,135)
AWT Change Orders	\$ (13,547)	\$ (1,188)
Unamortized Rate Case Expense	\$ (100,000)	\$ (8,768)
Staff Audit Adjustment: Lack of Plant Documentation	\$ (972,447)	\$ (85,260)
Staff Audit Adjustment: Offset to Land Entry	\$ (152,255)	\$ (13,349)
Staff Audit Adjustment: Permit Fees	\$ 577	\$ 51
Staff Audit Adjustment: Beachcleaner Rental	\$ 910	\$ 80
Staff Audit Adjustment: Working Capital	\$ (168,265)	\$ (14,753)
Accumulated Depreciation	\$ (124,116)	\$ (10,882)
Accumulated Amoritization	\$ (99,739)	\$ (8,745)
<u>Operating Expenses Adjustments</u>		
Keys Environmental Mark-Up	\$ (33,826)	\$ (35,348)
Staff Audit Adjustment: Keys Environmental Lab Testing	\$ (1,313)	\$ (1,372)
Keys Environmental Hook-Up Fees	\$ (15,000)	\$ (15,675)
Reclassify Keys Environmental Expenses	\$ (51,663)	\$ (53,988)
Keys Environmental Expenses to Be Reimbursed	\$ (3,077)	\$ (3,215)
Mr. Smith's Management Fees	\$ (30,000)	\$ (31,350)
Sludge Hauling Test Year Expenses	\$ (7,819)	\$ (8,171)
Chemical Test Year Expenses	\$ (16,480)	\$ (17,222)
Mr. Smith's Travel Expenses	\$ (19,106)	\$ (19,966)
Staff Audit Adjustment: Golf Cart Allocation	\$ (1,548)	\$ (1,618)
Non-Used and Useful Adjustment	\$ (6,929)	\$ (7,241)
Materials and Supplies Test Year Expense	\$ (2,739)	\$ (2,862)
Other Travel Expenses	\$ (2,525)	\$ (2,639)

KW Resort Utilities Corporation
Summary of Adjustments

Description	Amount	Revenue Requirement Impact
Telephone Charges	\$ (7,508)	\$ (7,846)
Political Expenses	\$ (1,203)	\$ (1,257)
Public Relations Expenses	\$ (26,653)	\$ (27,852)
Miscellaneous Expenses	\$ (646)	\$ (675)
AWT Pro-forma Expenses	\$ (143,048)	\$ (149,485)
Amoritization of Rate Case Expense	\$ (50,000)	\$ (52,250)
Staff Audit Adjustment: Trailer Floor Care	\$ (1,032)	\$ (1,078)
Staff Audit Adjustment: Insurance Finance Charges	\$ (701)	\$ (732)
Staff Audit Adjustment: Beachcleaner Rental	\$ (11,825)	\$ (12,357)
KWGC Employee Bonuses	\$ (12,038)	\$ (12,580)
Staff Audit Adjustment: Taxes Other than Income Tax	\$ (7,950)	\$ (8,308)
Depreciation Expense	\$ (406,606)	\$ (424,903)
Revenue		
Test Year Revenue Increase	\$ 158,151	\$ (165,268)
Trailer Rent	\$ 14,600	\$ (15,257)
Monroe County Detention Center Income	\$ 19,624	\$ (20,507)
Total Adjustments		
Revenue	\$ 192,375	\$ (201,032)
Operations and Maintenance Expenses	\$ (446,678)	\$ (466,778)
Depreciation Expense	\$ (406,606)	\$ (424,903)
Taxes Other than Income Tax	\$ (7,950)	\$ (8,308)
Utility Plant in Service	\$ (3,345,810)	\$ (293,346)
Accumulated Depreciation	\$ (124,116)	\$ (10,882)
Accumulated Amortization	\$ (99,739)	\$ (8,745)
Working Capital	\$ (168,265)	\$ (14,753)
Total		\$ (1,428,746)
Company Requested Increase		\$ 601,684
Recommended Rate Decrease		\$ (827,062)

Key West Resort Utilities Corporation
Organizational Chart

Sources:
Response to Citizens' Interrogatories 27, 28, and 76.
Deposition of Messrs. Smith and Johnson.



Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 3

Key West Resort Utilities Corporation
900 Commerce Generator

Sources:
Staff Audit Request 3.
Company's 2006 Annual Report.

900 Commerce Associates

900 Commerce Drive - Suite 205
Oak Brook, IL 60521

INVOICE

DATE	INVOICE #
12/16/2005	GEN-1205

BILL TO
KW Resort Utilities 6630 Front Street Key West, FL 33040

DATE	ITEM	DESCRIPTION	AMOUNT
12/16/2005	Generator	Sale of Kohler 750 KW (928 KVA) Generator and 800 amp transfer switch, including shipping and handling.	75,000.00
Please remit to the address above - Call Bill Skd at 630-928-0050 if you have any questions.			Total 75,000.00

Green Fairways, Inc.
 900 Commerce Drive - Suite 205
 Oak Brook, IL 60521

Rent Invoice

Date	Invoice #
8/21/2003	GEN-0803

Bill To:
KW Resort Utilities 6630 Front Street Key West, FL. 33040 ATTN: Doug Carter

*NOT IN
 GL
 ACCOUNT
 TO G.F.*

Terms	Due Date
Net due in 10 Days	9/2/2003

Item	Description	Month	Amount
Furniture / Equipment	Generator - 750 KW (937.5 KVA rating) plus two Automatic Transfer Switches - 600a & 800a Material and delivery to Key West, FL. - complete <i>20715</i>	September	30,000.00
Please remit to the address below. Call Bill Ski at 630-928-0050 if you have any questions.			Total 30,000.00

Green Fairways, Inc.
 900 Commerce Drive - Ste. 205
 Oak Brook, Illinois 60523 Tel. 630-928-0050

UTILITY NAME: KW Resort Utilities Corp

YEAR OF REPORT December 31, 2006
--

BUSINESS TRANSACTIONS WITH RELATED PARTIES

List each contract, agreement, or other business transaction exceeding a cumulative amount of \$500 in any one year, entered into between the Respondent and a business or financial organization, firm, or partnership named on pages E-2 and E-6 identifying the parties, amounts, dates and product, asset, or service involved.

Part I. Specific Instructions: Services and Products Received or Provided

1. Enter in this part all transactions involving services and products received or provided.
2. Below are some types of transactions to include:
 - management, legal and accounting services
 - computer services
 - engineering & construction services
 - repairing and servicing of equipment
 - material and supplies furnished
 - leasing of structures, land and equipment
 - rental transactions
 - sale, purchase or transfer of various products

NAME OF COMPANY OR RELATED PARTY (a)	DESCRIPTION SERVICE AND/OR NAME OF PRODUCT (b)	CONTRACT OR AGREEMENT EFFECTIVE DATES (c)	ANNUAL CHARGES	
			(P)urchased or (S)old (d)	AMOUNT (e)
Green Fairways	Management & Construction Services	8/17/98 - Open	P	\$ 66,000
Key West Golf Course	Accounting, billing, customer accounts & service	8/17/98 - open	P	107,609
Key West Golf Course	Sale of Generator	12/2006	S	15,000
William L Smith, Jr	Fuel & Lodging	Open	P	10,773

UTILITY NAME: KW Resort Utilities Corp

YEAR OF REPORT December 31, 2006
--

BUSINESS TRANSACTIONS WITH RELATED PARTIES

Part II. Specific Instructions: Sale, Purchase and Transfer of Assets

- | | |
|--|---|
| <p>1. Enter in this part all transactions relating to the purchase, sale or transfer of assets.</p> <p>2. Below are examples of some types of transactions to include:</p> <ul style="list-style-type: none"> - purchase, sale or transfer of equipment. - purchase, sale or transfer of land and structures. - purchase, sale or transfer of securities. - noncash transfers of assets. - noncash dividends other than stock dividends. - writeoff of bad debts or loans. | <p>3. The columnar instructions follow:</p> <ul style="list-style-type: none"> (a) Enter name of related party or company. (b) Describe briefly the type of assets purchased, sold or transferred. (c) Enter the total received or paid. Indicate purchase with "P" and sale with "S". (d) Enter the net book value for each item reported. (e) Enter the net profit or loss for each item (column (c) - column (d)). (f) Enter the fair market value for each item reported. In space below or in a supplemental schedule, describe the basis used to calculate fair market value. |
|--|---|

NAME OF COMPANY OR RELATED PARTY (a)	DESCRIPTION OF ITEMS (b)	SALE OR PURCHASE PRICE (c)	NET BOOK VALUE (d)	GAIN OR LOSS (e)	FAIR MARKET VALUE (f)
Key West Golf Club	750 KW Gnerator	\$ 15,000	\$ 25,500	\$ (10,500)	\$ 15,000

Key West Resort Utilities Corporation
Keys Environmental, Inc. Charges

Account	Description	2004	2005	2006	Jan-07	Feb-07	Mar-07	Apr-07	May-07	Jun-07	Jul-07	Aug-07	Sep-07	Oct-07
105	CWIP													
207150000	SSI Expansion	\$ 75,000		\$ 4,373	\$ 252	\$ 1,584				\$ 6,912			\$ 6,757	
207330000	AWI Conversion		35,661	27,534	2,013	4,572	41,006	25,823	30,085	27,234	59,303	19,450	12,182	
186	Misc. Deferred Debits													
185000000	Prepaid Expenses - EDUs		120,000	15,000										
355	Power Generation Equipment													
202700000	Power and Generation Equipment		683	1,737										
371	Pumping Equipment													
203500000	Pumping Equipment		64,180											
375	Reuse Transmission & Distribution													
204500000	Reuse Transmission & Distribution			13,761							22,426			
380	Treatment & Disposal Equipment													
206700000	Vacuum Station		4,393	23,679										
408	Taxes Other than Income													
909510000	Licenses & Permits								437					
711	Sludge Hauling													
901410000	Sludge Disposal	3,135	5,537	19,472	175		8,521	6,325	10,587		1,934	2,008		
718	Chemicals													
901010000	Chemicals & Supplies (renamed 2007)	12,237	27,121	42,947										
901020000	Chemicals				3,956	481	1,209	4,184	2,298	1,485	5,367	2,579	2,535	
720	Materials & Supplies													
901010000	Supplies (renamed 2007)				4,647	3,154	4,566	1,368	1,094	1,338	2,150	282	2,046	
901610000	Equipment - Repairs & Maint					266								
903010000	Disconnections	16	1,634	75										
903110000	Emergency Repairs		2,835											
903210000	Equipment & Supplies	650	2,668	348										
903310000	Lift Stations-Cleaning		321	2,854				750						
903510000	Air Vac			40,000	3,333	3,333	3,333	3,333	3,333	3,333	3,333	3,333	3,333	3,333
903610000	Pumps & Panels - Repairs & Maint.		1,082	1,637							321			
903810000	Sewer Lines - Repairs & Maint.	4,898	11,778	10,181	3,660	1,067	2,984			168	3,510	3,775		
903812000	Vacuum Collection System	1,014	2,977	24,895	4,691	3,860		2,450	1,091	254	7,260	1,777	1,198	
903910000	Effluent - Repairs & Maint.		2,600	775			1,624		924	11,436	380		6,966	
906210000	Office Supplies			35						2,689	251			
735	Contract Services - Testing													
901510000	Testing (DEP)	78	415											
736	Contract Services - Other													
901110000	Grounds & Trailer Maint.	36		982										
901210000	Plant - Repair & Maint.	23,792	34,620	23,546	6,769	9,754	3,690	1,855	1,636	971	8,639	1,375	2,994	
901212000	Vacuum Station - Repair & Maint.	1,270	7,822	22,160	77		84		1,290	6,543	74			
901710000	Filter Beds		2,946	2,393			2,302							
901810000	Generator	201	3,738	4,916			208		585	1,794	8,013	353	250	
903410000	Lift Stations - Repairs & Maint.	14,206	12,497	35,745	3,916	1,150	524		4,236		1,426	7,779	5,576	
903710000	Sewer Lines Cleaning		423	1,376										
907110000	Contract Services - Oper. Mgt. (KEI)	189,708	275,972	293,471	30,001	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000	30,000
775	Miscellaneous Expenses													
908210000	Auto & Travel	3,761	8,741	1,866		26					904	1,434		
909210000	Computer						2,599							
		\$ 330,003	\$ 630,643	\$ 615,756	\$ 63,489	\$ 59,248	\$ 102,650	\$ 76,088	\$ 87,595	\$ 94,477	\$ 154,971	\$ 74,144	\$ 73,836	\$ 33,333

Source: Response to Citizen's Interrogatory 11.

Created by MI 12/12/07.
 Checked by SA 12/14/07.

Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 5

Key West Resort Utilities Corporation
Keys Environmental, Inc. Markup

Sources:
Response to Citizens' PODs 2 and 28.
Staff Audit Workpapers.

GALLS INCORPORATED

1340 Russell Cave Road, Lexington, KY 40505
 1-800-477-7766 www.galls.com

CUSTOMER NO.

0055661185
 KEYS ENVIRONMENTAL INC
 6630 FRONT STREET
 KEY WEST, FL 33040

ORDER NO.

575919950001
 Pkt Ctrl Nbr
 A003259535

KEYS ENVIRONMENTAL INC
 6630 FRONT STREET
 KEY WEST, FL 33040

RETURN INSTRUCTIONS ON REVERSE SIDE

PACKING LIST-DO NOT PAY FROM THIS COPY

WFL	QTY	ITEM NO.	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
	0.00	LB437 MGT 2COLOR	HALOGEN MINI-BAR MAG MOUNT CLR W/PI	0.00	329.97
	0.00	LB437 MGT CLR	HALOGEN MINI-BAR MAGNETIC MOUNT CLR	0.00	0.00
	0.00	LB060 AMB	MX PRIMARY FILTERS (ON BAR) AMBER	0.00	0.00

PASS THRU TO KWRU
 NO MARK-UP
 AUTO ACCESSORY



GALLS INCORPORATED
 1340 Russell Cave Road, Lexington, KY 40505

LAST OF 1 PAGES

KEI has ϕ tangible proper

Net Product \$	329.97
Tax	0.00
P & H	19.99
Total Shipment \$	349.96
MC	349.96

Cust. Phone #: 3052953301

03/04/2005 5235 0002 3/10/2005 1:58:50PM 20050310316 LEX

KEYS ENVIRONMENTAL INC

KEY WEST, FL 33040



Order: 575919950001

PO #: YLBS4237



"Excellence in Engineering"

5800 Overseas Highway, Suite 36
 Marathon, Florida 33050
 (305) 289-4161 ph
 (305) 289-4162 fax

MEMORANDUM

To: Doug Carter

From: Ed Castle, PE

Date: April 13, 2007

Re: Monthly Budget Numbers for 2007 with AWT Construction Complete

I have made the assumption that the flows will increase to 400,000 GPD since it looks like the trailer parks are finally going to connect. Under that assumption, the monthly budget numbers calculate out as shown below. Call me if you have questions.

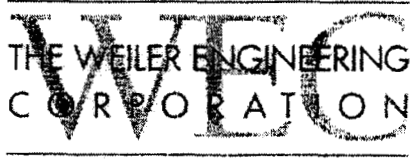
Cost Category	AWT Level Treatment
Electricity	\$15,650
Chemicals	\$13,592
Sludge Hauling	\$3,183

<u>CATEGORY</u>	<u>MONTHLY COST</u>	<u>ANNUALIZED</u>	<u>HISTORIC</u>	<u>ADJ</u>
ELECTRICITY	15650	187800	141282	46518
CHEMICALS	13592	163104	50763	112341
SLUDGE HAUL	3183	38196	19472	18724
TOTAL	32425	389100	211517	177583

NOTE: Electricity costs will increase by \$5,150 per month

Chemical costs will increase by \$12,142 per month

Sludge Hauling will increase by \$333 per month



"Excellence in Engineering"

5800 Overseas Highway, Suite 36
Marathon, Florida 33050
(305) 289-4161 ph
(305) 289-4162 fax

MEMORANDUM

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I have made the assumption that the flows will increase to 400,000 GPD since it looks like the trailer parks are finally going to connect. Under that assumption, the monthly budget numbers calculate out as shown below. Call me if you have questions.

Cost Category	AWT Level Treatment
Electricity	\$15,650
Chemicals	\$13,592
Sludge Hauling	\$3,183

Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 6

Key West Resort Utilities Corporation
Hurricane Hole Change Order

Sources:
Response to Citizens' POD 83.



Engineering Department
1100 Simonton Street, 2-216
Key West, FL 33040



BOARD OF COUNTY COMISSIONERS

Mayor Murray E. Nelson , District 5
Mayor Pro Tem David P. Rice, District 4
Dixie M. Spehar, District 1
George Neugent, District 2
Charles "Sonny" McCoy, District 3

July 21, 2004



Mr. Doug Carter
KW Resort Utilities Corp.
Post Office Box 2125
6450 College Road
Key West, Florida 33045

RE: KW Resort Utilities
Change Order - Hurricane Hole Marina

Dear Doug:

On July 14, 2004, the Monroe County Board of County Commissioners approved a payment request in the amount of \$53,225.00 to pay KW Resort Utilities for additional sewer work within the public right-of-way along U.S. 1 on Stock Island, provided all conditions precedent are satisfied, and plans dated June 10, 2004 for Hurricane Hole Marina are approved.

Enclosed please find original Change Order No. 1 to the Capacity Reservation and Infrastructure Contract dated July 31, 2002, authorizing payment for the above work. This change order needs to be completed by KW Resort Utilities as indicated and returned to me for execution by Monroe County.

Should you have any questions, please feel free to contact me at 292-4426.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. S. Koppel'.

David S. Koppel, P.E.
County Engineer

DSK/jbw

c: James L. Roberts, County Administrator
C. Dent Pierce, Director, Public Works

RECEIVED
 DEC 03 2007
 BY: *[Signature]*

Monroe County Engineering Department

Contract Change Order No. 1
 Project Title: KW Resort Utilities Additional Sewer Work - Hurricane Hole Marina

Summary of Change Orders

Total Previous Change Order(s)	\$0.00	
Current Change Order	\$53,225.00	
Original Contract Amount	\$4,226,000.00	(\$4,606,000 less \$380,000)
Percent of Original Contract	0.00%	
Percent After Prior Change Order(s)	0.00%	
Revised Contract Amount	\$4,279,225.00	
Original Contract Expiration	10/26/2003	
Revised Contract Expiration	n/a	

Detailed description of change and justification:

Additional work to provide sewer line to Hurricane Hole Marina, Stock Island

Item #	Description	Change	Unit Cost	Amount
1.	6" vacuum sewerline (R/W)	781 lf @	\$46.00 /lf	\$35,926.00
2.	Isolation Valve (R/W)	1 ea @	\$700.00 /lf	\$700.00
3.	Asphalt (R/W)	391 lf @	\$15.00 /ea	\$5,865.00
4.	DOT Limerock (R/W)	215 lf @	\$10.00 /ea	\$2,150.00
5.	General Conditions/Conting (R/W)	1 ls @	\$1,014.00 /ea	\$1,014.00
6.	Engineering	1 ls @	\$7,570.00	\$7,570.00
				\$53,225.00

Contractor:
 KW RESORT UTILITIES CORP.

By: *[Signature]*

ATTEST: *[Signature]*

8/17/04
 Date

BOARD OF COUNTY COMMISSIONERS
 OF MONROE COUNTY, FLORIDA

(SEAL)
 ATTEST: DANNY L. KOLHAGE, CLERK

By: _____
 Mayor/Chairman

By: _____
 Deputy Clerk

 Date

Change Order Attachment Per Ordinance No. 004-1999

- Change Order was not included in the original contract specifications. Yes No

If Yes, explanation:

Additional work to provide sewer line to Hurricane Hole Marina, Stock Island

- Change Order was included in the original specifications. Yes No

If Yes, explanation of increase price:

- Change Order exceeds \$25,000 or 5% of contract price (whichever is greater). Yes No

If Yes, explanation as to why it is not subject for a calling for bids:

- Project architect approves the change order. Yes No

If No, explanation of why:

- Change Order is correcting an error or omission in design document. Yes No

Should a claim under the applicable professional liability policy be made?

Yes No

Explain:

K W Resort Utilities Corporation
Monroe County Detention Center Project Costs

10/31/2001 Synagro - October Expenses	700
11/15/2001 Weiler Expense	12,185
12/14/2001 Jail Project/KWGC Pipes - B&L Beneway	7,950
12/29/2001 To KWGC/Effluent Line to Jail	88,790
12/31/2001 Weiler 2001 Bills Broken Out	17,078
1/28/2002 Permit to Abandon Wells	50
1/31/2002 CK Cut to B&L Beneway/Jail Proj	63,957
2/15/2002 Weiler Enginerring Check #1001	13,540
3/14/2002 Monitor Jail Project	350
3/14/2002 CK#1002 B&L Beneway/Jail Project	71,043
3/31/2002 CK#1003 B&L Beneway/Jail Project	25,381
3/31/2002 Synagro Expenses/March	940
4/15/2002 Sod/Jail Project	1,373
4/30/2002 Weiler Engineering Inv #30411/30489/30662	12,227
4/30/2002 MCDC Final Payment	5,000
5/14/2002 Sand/MCDC Project	286
5/14/2002 Deliver Sand/MCDC Project	1,132
6/11/2002 Green Fairways - MCDC Project 10% Mgmt Fee	32,198
10/23/2002 Weiler Engineering May/02 Re Jail Contract	2,069
Total	\$ 356,248

Sources:
Staff Audit Request 3.
Response to Citizens' Interrogatory 78.

Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 8

Key West Resort Utilities Corporation
Green Fairways Change Orders

Source: Response to Citizens' Interrogatory 56.



Keys Environmental Inc.

6630 Front St.
Key West, FL 33040
305.295.3301
FAX 305.295.0143
www.keysenvironmental.com

Handwritten initials

See Summary

FAX COVER SHEET

Date: 10.12.07

To: ~~DOUG~~ DOUG
Phone:
FAX:

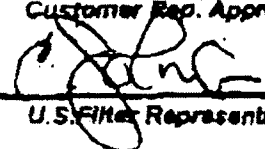
From: CJ
Phone:
FAX:

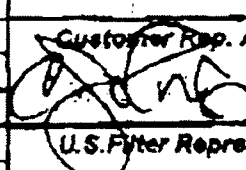
RE: Green Fairways AWT Upgrade on WWTP
ALL C.O.'s to date
Number of Pages (including cover sheet):

Original will: Not follow Follow
By: U.S. Mail Courier

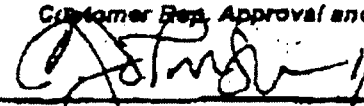
MESSAGE:

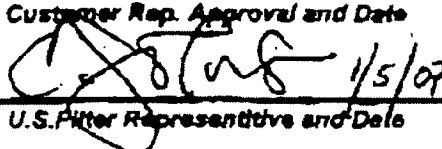
C.O.'s 1-5 MOB/DEMOb/REnt	\$ 13,546.67
CO R1 Steel Plant #2	\$ 100,000
CO No 2 Paint 2 nd Coat	\$ 18,700
CO. Plant #1 Steel	\$ 7,223

	A	B	C	D	E	F	G	H	I	J	K
1	U.S. Filter / Davco Field Change/Extra Work Sheet									Date: 12/11/2006	
2	Customer: <u>Key West Resort Utilities</u>				Location: <u>Key West Fl.</u>						
3	Job Name: <u>Green Fairways</u>				Job Number: <u>11400</u>						
4	Customer Rep: <u>Chris Johnson</u>				Superintendant: <u>Dahl Johnson</u>						
5	Brief description of the change:										
6	We were originally suppose to start the job on 11/8/06. So we rented a house for 3,300.00 a month.										
7	The customer was red tagged and could not pour the slab until the permits were done.										
8											
9	Change Order 1										
10											
11	Summary of labor										
12	Employee	Craft	Reg. Hrs.	Rate/Hr.	O.T.Hrs.	Rate/Hr.	D.T.Hrs	Rate/Hr.	Total		
13											
14											
16											
16											
17											
18											
19											
20											
21											
22											
23	Total Labor Summary										
24											
25	Materials Purchased, Subcontracts & Rental Equipment *									Actual Cost	
26	House rental									\$3,300.00	
27											
28											
29											
30											
31											
32	*Also may include Expense for U.S.F./Davco employees							Total		\$3,300.00	
33											
34	Contract Overhead							Total			
35											
36											
37											
38										SubTotal	
39										\$3,300.00	
40										Total cost + 10%	
41										\$3,666.67	
42										Customer Rep. Approval and Date	
43										 1/5/07	
44										U.S. Filter Representative and Date	
45											
46	Total for Equipment										
47	C.O. # 01										

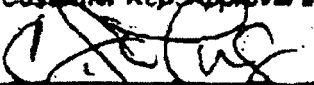
	A	B	C	D	E	F	G	H	I	J	K
1	U.S. Filter / Davco Field Change/Extra Work Sheet									Date: 12/1/2006	
2	Customer: Key West Resort Utilities			Location: Key West Fl.							
3	Job Name: Green Fairways			Job Number: 11400							
4	Customer Rep: Chris Johnson			Superintendent: Dahl Johnson							
5	Brief description of the change:										
6	We could not work because the customer does not have the permits										
7											
8											
9	Change Order 2										
10											
11	Summary of labor										
12	Employee	Craft	Req. Hrs.	Rate/Hr.	O.T.Hrs.	Rate/Hr.	D.T.Hrs	Rate/Hr.	Total		
13	Dahl Johnson	Sup	8.00	\$44.75					\$358.00		
14	Kevin Taylor	Fab	8.00	\$27.00					\$216.00		
15	George Stanford	Welder	8.00	\$27.00					\$216.00		
16	Josh Burnette	Welder	8.00	\$27.00					\$216.00		
17											
18											
19											
20											
21											
22											
23	Total Labor Summary									\$1,008.00	
24											
25	Materials Purchased ,Subcontracts & Rental Equipment *									Actual Cost	
26	House Rent									\$110.00	
27	Per Diem									\$108.00	
28											
29											
30											
31											
32	*Also may include Expense for U.S.F./Davco employees									Total	\$218.00
33											
34	Contract Overhead									Total	
35											
36											
37											
38	Equipment	Quantity	Hourly Rt.	Hours	Cost			SubTotal			
39	Crane							\$1,224.00			
40	Generator							Total cost + 10%			
41	Pick-up Truck							\$1,360.00			
42	SubArc Welder							Customer Rep. Approval and Date  1/5/2007 U.S. Filter Representative and Date			
43	Tool Container										
44	Tool Trailer										
45	Welding Mach.										
46	Total for Equipment										
47	C.O. # 01										

	A	B	C	D	E	F	G	H	I	J	K
1	U.S. Filter / Davco Field Change/Extra Work Sheet									Date: 12/10/2008	
2	Customer: Key West Resort Utilities			Location: Key West Fl.							
3	Job Name: Green Fairways			Job Number: 11400							
4	Customer Rep: Chris Johnson			Superintendent: Dahl Johnson							
5	Brief description of the change:										
6	We could not work because the customer does not have the permits										
7											
8											
9	Change Order 3										
10											
11	Summary of labor										
12	Employee	Craft	Req. Hrs.	Rate/Hr.	O.T.Hrs.	Rate/Hr.	D.T.Hrs	Rate/Hr.	Total		
13	Dahl Johnson	Sup	8.00	\$44.75					\$358.00		
14	Kevin Taylor	Fab	8.00	\$27.00					\$216.00		
15	George Stanford	Welder	8.00	\$27.00					\$216.00		
16	Josh Burnette	Welder	8.00	\$27.00					\$216.00		
17											
18											
19											
20											
21											
22											
23	Total Labor Summary									\$1,008.00	
24											
25	Materials Purchased, Subcontracts & Rental Equipment *									Actual Cost	
26	House Rent									\$110.00	
27	Per Diem									\$108.00	
28											
29											
30											
31											
32	*Also may include Expense for U.S.F./Davco employees									Total	\$218.00
33											
34	Contract Overhead									Total	
35											
36											
37										SubTotal \$1,224.00	
38	Equipment	Quantity	Hourly Rl.	Hours						Total cost + 10%	
39	Crane									\$1,360.00	
40	Generator										
41	Pick-up Truck										
42	SubArc Welder										
43	Tool Container										
44	Tool Trailer										
45	Welding Mach.										
46	Total for Equipment										
47	C.O. #01										

Customer Rep. Approval and Date
 1/5/07
 U.S. Filter Representative and Date

	A	B	C	D	E	F	G	H	I	J	K
1	U.S. Filter / Davco Field Change/Extra Work Sheet								Date: 12/11/2006		
2	Customer: Key West Resort Utilities				Location: Key West Fl.						
3	Job Name: Green Fairways				Job Number: 11400						
4	Customer Rep: Chris Johnson				Superintendent: Gahl Johnson						
5	Brief description of the change:										
6	We could not work because the customer does not have the permits										
7											
8											
9	Change order 4										
10											
11	Summary of labor										
12	Employee	Craft	Reg. Hrs.	Rate/Hr.	O.T.Hrs.	Rate/Hr.	D.T.Hrs	Rate/Hr.	Total		
13	Dean Johnson	Sup	8.00	\$44.75					\$358.00		
14	Kevin Taylor	Fac	8.00	\$27.00					\$216.00		
15	George Stanford	Welder	8.00	\$27.00					\$216.00		
16	Josh Burnette	Welder	8.00	\$27.00					\$216.00		
17											
18											
19											
20											
21											
22											
23	Total Labor Summary								\$1,008.00		
24											
25	Materials Purchased ,Subcontracts & Rental Equipment *								Actual Cost		
26	House Rent								\$110.00		
27	Per Diem								\$108.00		
28											
29											
30											
31											
32	*Also may include Expense for U.S.F/Davco employees								Total		\$216.00
33											
34	Contract Overhead								Total		
35											
36									SubTotal		
37									\$1,224.00		
38	Equipment	Quantity	Hourly Rl	Hours	Cost			Total cost + 10%			
39	Crane							\$1,360.00			
40	Generator										
41	Pick-up Truck							Customer Rep. Approval and Date  1/5/07 U.S.Filter Representative and Date			
42	SubArc Welder										
43	Tool Container										
44	Tool Trailer										
45	Welding Mach.										
46	Total for Equipment										
47	C.O. #01										

	A	B	C	D	E	F	G	H	I	J	K
1	U.S. Filter / Davco Field Change/Extra Work Sheet									Date: 12/6/2006	
2	Customer: Key West Resort Utilities					Location: Key West Fl.					
3	Job Name: Green Fairways					Job Number: 11400					
4	Customer Rep: Chris Johnson					Superintendent: Dahl Johnson					
5	Brief description of the change:										
6	Crane cost and house rent for the time Siemens could not work because the correct permits had not										
7	been aquired										
8											
9	Change order # 5										
10											
11	Summary of labor										
12	Employee	Craft	Reg. Hrs.	Rate/Hr.	O.T.Hrs.	Rate/Hr.	D.T.Hrs	Rate/Hr.	Total		
13											
14											
15											
16											
17											
18											
19											
20											
21											
22											
23	Total Labor Summary										
24											
25	Materials Purchased ,Subcontracts & Rental Equipment *									Actual Cost	
26	Crane 15 days rental at 238.00 per day									\$3,570.00	
27	House 15 days rent at 110.00 per day									\$1,650.00	
28											
29											
30											
31											
32	*Also may include Expense for U.S.F/Davco employees									Total	\$5,220.00
33											
34	Contract Overhead									Total	
35											
36											
37										SubTotal \$5,220.00	
38	Equipment	Quantity	Hourly RL	Hours	Cost					Total cost + 10%	
39	Crane									\$5,800.00	
40	Generator										
41	Pick-up Truck										
42	SubArc Welder										
43	Tool Container										
44	Tool Trailer										
45	Welding Mach.										
46	Total for Equipment										
47	C.O. # 01										

Customer Rep. Approval and Date
 1/5/07

U.S. Filter Representative and Date

Siemens Water Technology

CHANGE ORDER

Dayco Products
 1828 Metcalf Ave.
 Thomasville, GA 31792
 Phone: (229) 227-8786 Fax: (229)-226-4793

Change Order No. R1

TO: Green Fairways Inc. & KW Resort

JOB NAME: Green Fairways Inc. & KW Resort

ATTN: Chris Johnson

JOB NUMBER: D-11400RH

PURSUANT TO THE TERMS AND CONDITIONS OF PURCHASE ORDER NO. #1, THE UNDERSIGNED PARTIES TO SAID CONTRACT DESIRE TO MODIFY SAME BY CHANGING THE EQUIPMENT AND/OR LABOR TO BE FURNISHED PURSUANT TO SAID CONTRACT IN ACCORDANCE WITH CERTAIN INSTRUCTION REQUESTS, PLANS AND/OR SPECIFICATIONS OF IN THE FOLLOWING PARTICULARS:

ITEM NO.	DESCRIPTION OF CHANGE AND STATEMENT OF REASON	AMOUNT
1	<p>Siemens Water Technologies proposes to furnish labor, supervision, expandable materials, equipment and new materials to perform the scope of work listed below:</p> <p>I. Scope of Work on existing plant #2.</p> <p>A. Replace hydrostatic bulkhead located at 270 degrees, which is under the bridge assembly. Material = \$15,483 Installation = \$ 6762</p> <p>B. Replace reinforcing channels on bulkhead located at 193 degrees. Bulkhead between surge zone and digester zone. Material = \$6686 Installation = \$ 7392</p> <p>C. Replace the top 24" on the clarifier wall. Material = \$4631 Installation = \$ 6501</p> <p>D. Replace the clarifier trim channel. Material = \$2248 Installation = \$ 4226</p> <p>E. Replace the clarifier reinforcing in the surge zone. Material = \$1221 Installation = \$ 1500</p> <p>F. Replace approximately 30' of the main bridge tubing. Material = \$1707 Installation = \$ 5414</p> <p>G. Replace the influent support platform assembly. Material = \$3753 Installation = \$ 4226</p>	

	<p>H. Replace the influent trough assembly. Material = \$5028 Installation = \$ 4684</p> <p>I. Replace pipe from influent box to influent trough assembly. Material = \$1882 Installation = \$ 151</p> <p>J. Replace surge pump piping and guide rails. Material = \$8384 Installation = \$ 3039</p> <p>K. Replace outer wall plates in the surge zone. Material = \$14,834 Installation = \$ 8972</p> <p>TOTAL MATERIALS = \$83,835 TOTAL INSTALLATION = \$82,947 FREIGHT = \$2,412 TOTAL = \$119,194</p> <p>Taxes not included in material pricing.</p>	<p>pipng sch 80 PVC. <i>CF</i></p> <p>Material =</p> <p>pipng sch 80 PVC. <i>CF</i></p> <p>Guide RAILS SS</p> <p>\$100,000 <i>CF</i></p> <p>\$148,196</p>
--	---	---

THIS OFFER OF MODIFICATION IS DEEMED ACCEPTED AND ASSENTED TO BY PURCHASER IF WITHIN A REASONABLE TIME THE TERMS OF THIS CHANGE ORDER HAVE NOT BEEN OBJECTED TO IN WRITING BY PURCHASER TO SELLER. IT BEING AGREED UPON BY THE PARTIES THAT A REASONABLE TIME FOR OBJECTION IS 10 DAYS FROM THE DATE HEREOF.

PREVIOUS CONTRACT AMOUNT: \$988,348.87

NEW CONTRACT AMOUNT: ~~\$1,087,648.87~~ \$1,098,346.67 *CF*

IT IS FURTHER UNDERSTOOD THAT THIS WRITTEN MODIFICATION IN NO WAY ADVERSELY AFFECTS THE VALIDITY AND/OR ENFORCEABILITY OF ALL TERMS AND CONDITIONS OF SAID PURCHASE ORDER NUMBER #1 NOT SPECIFICALLY AND EXPRESSLY MODIFIED HEREBY.

[Signature] Customer Representative *Greg Fairways/KURU* Contracts Manager

3/2/2007 Date Date

Chris Johnson

From: Smith, Greg L (WT) [GregL.Smith@siemens.com]
Sent: Monday, April 30, 2007 4:43 PM
To: chrisw@bellsouth.net
Subject: D11400RH External CO#2.DOC

Chris this our internal document for the paint on plant #2. Please sign, fax back to 229-226-4793 Attention Greg Smith, we will return send a executed copy back to you.

Siemens Water Technology

CHANGE ORDER

Change Order No. 2

Davco Products
1828 Metcalf Ave.
Thomasville, GA 31792
Phone: (229) 227-8786 Fax: (229)-226-4793

TO: Green Fairways Inc. & KW Resort

JOB NAME: Green Fairways Inc. & KW Resort

ATTN: Chris Johnson

JOB NUMBER: D-11400RH

PURSUANT TO THE TERMS AND CONDITIONS OF PURCHASE ORDER NO. #2, THE UNDERSIGNED PARTIES TO SAID CONTRACT DESIRE TO MODIFY SAME BY CHANGING THE EQUIPMENT AND/OR LABOR TO BE FURNISHED PURSUANT TO SAID CONTRACT IN ACCORDANCE WITH CERTAIN INSTRUCTION REQUESTS, PLANS AND/OR SPECIFICATIONS OF IN THE FOLLOWING PARTICULARS:

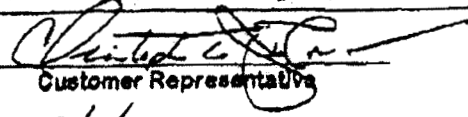
ITEM NO.	DESCRIPTION OF CHANGE AND STATEMENT OF REASON	AMOUNT
1	A. Change for increasing the DFT Mills of Paint on Plant #2 by (8). Any area blasted to near white will be primed back with (3) mills DFT of Sherwin Williams B62Y110 Copoxy Primer.	\$18,700

THIS OFFER OF MODIFICATION IS DEEMED ACCEPTED AND ASSENTED TO BY PURCHASER IF WITHIN A REASONABLE TIME THE TERMS OF THIS CHANGE ORDER HAVE NOT BEEN OBJECTED TO IN WRITING BY PURCHASER TO SELLER. IT BEING AGREED UPON BY THE PARTIES THAT A REASONABLE TIME FOR OBJECTION IS 10 DAYS FROM THE DATE HEREOF.

PREVIOUS CONTRACT AMOUNT: \$1,068,346.67

NEW CONTRACT AMOUNT: \$1,087,048.87

IT IS FURTHER UNDERSTOOD THAT THIS WRITTEN MODIFICATION IN NO WAY ADVERSELY AFFECTS THE VALIDITY AND/OR ENFORCEABILITY OF ALL TERMS AND CONDITIONS OF SAID PURCHASE ORDER NUMBER #2 NOT SPECIFICALLY AND EXPRESSLY MODIFIED HEREBY.



Customer Representative

Contracts Manager

5/2/2007
Date

Date



Keys Environmental Inc.

6630 Front St.
Key West, FL 33040
305.295.3301
FAX 305.295.0143
www.keysenvironmental.com

FAX COVER SHEET

Date: *May 2, 2007*

To: *Greg Smith*
Phone:
FAX:

From:
Keys Environmental Inc.
Christopher Johnson
6630 Front St. (Stock Island)
Key West, FL 33040
305.295.3301
FAX 305.295.0143

RE: *C.O. #2 Green Fairways AWT CONV.*

Number of Pages (including cover sheet): *3*

Original will: Not follow Follow

By: U.S. Mail Courier

MESSAGE:

Yahoo! Mail - keysenvironmental@yahoo.com

Page 1 of 2

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From: chrisw@bellsouth.net [View Contact Details] [Add Mobile Alert]

To: "Griner, Earl (WT)" <William.Griner@siemens.com>

Subject: Re: Green Fairways / Key West Resort Utilities / Job # 11400

Date: Tue, 17 Jul 2007 14:13:17 -0400

Earl,

Approved.

Can we set up a telephone call for Friday sometime between 11:00-2:00? It would be Ed and myself. This call would be to discuss the project up to this point and to discuss issues that could pop up between now and completion. -Chris

Chris Johnson
Project Representative for KRWU
cell 308.322.0052

> From: "Griner, Earl (WT)" <William.Griner@siemens.com>
> Date: 2007/07/16 Mon PM 01:10:44 EDT
> To: <chrisw@bellsouth.net>
> CC: "Smith, Greg L (WT)" <Greg.L.Smith@siemens.com>,
> "Sellers, Thomas F (WT)" <Thomas.Sellers@siemens.com>,
> "Taylor, Kevin (WT)" <Kevin.Taylor@siemens.com>
> Subject: Green Fairways / Key West Resort Utilities / Job # 11400

> Chris, the price to replace an 8' wide x 30' long section of the bottom outer wall plate on plant # 1 is \$ 7,223.

>

> Let me know ASAP so we can get this plate shipped to the site and installed before we finish the other fabrication work.

>

> Earl Griner
> Direct Sales Representative
> Siemens Water Technologies Corp.
> 1828 Hatoale Avenue
> Thomasville, GA 31792
> mailto:William.Griner@siemens.com
> Telephone: 229-227-8779
> Fax: 229-228-0112
> Cell: 229-401-1515
> www.siemens.com/water

>

> Confidentiality Note: This e-mail message and any attachments to it are intended only for the named recipients and may contain confidential

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Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 9

Key West Resort Utilities Corporation
Johnson Constructors AWT Project Charges

Sources:
Response to Citizens' PODs 7 and 73.

Date	Contractor/Vendor	Description	Payments	Expense
10/2/2006	Green Fairways	contract deposit	\$34,200.00	
10/13/2006	C&C Consituants	gen liability ins		\$8,873.62
10/16/2006	James Johnson	flight		\$198.00
10/16/2006	Home Depot	materials: saw horses for ring support		\$208.56
10/17/2006	James Johnson	2 days per diem @ \$50		\$100.00
10/17/2006	Home Depot	materials: blocks for ring support		\$58.48
10/18/2006	Chevron: Key West	auto expense		\$13.32
10/19/2006	Dollar Rent-A-Car	auto rental		\$111.43
10/22/2006	James Johnson	flight		\$198.00
10/22/2006	James Johnson	flight		\$198.00
10/23/2006	James Johnson	5 days per diem @ \$50		\$250.00
10/23/2006	Home Depot	materials: posts for ring support		\$70.72
10/25/2006	KW Welding	materials		\$8.60
10/26/2006	CarQuest	auto expense		\$3.19
10/27/2006	Green Fairways	phase 2 contract	\$34,408.80	
10/27/2006	Keys Grading	plies		\$32,600.00
10/30/2006	Freedom Oil	auto expense		\$20.24
10/30/2006	Avis	auto rental		\$213.99
10/31/2006	JAS Corp	drawing prep/CAD work 6hrs @ \$100/hr		\$600.00
10/31/2006	Sandi	1 sheet stamps: \$.39*18=		\$7.02
10/31/2006	Keys Environmental	labor		\$2,290.00
11/1/2006	Ichabod Crane	crane services (1/2)		\$262.50
11/2/2006	Ralco Atlantic	tank foundation		\$5,150.00
11/13/2006	Marco Aviation	flight		\$198.00
11/17/2006	James Johnson	3 days per diem @ \$50		\$150.00
11/16/2006	Freedom Oil	gas		\$9.19
11/17/2006	Enterprise Rent-a-car	car rental		\$289.00
	Ralco Atlantic			\$17,176.00
	Concrete Analysis			\$743.00
	Wayde's Bobcat			\$495.00
12/4/2006	Johnson Constructors LLC			\$30,000.00
PAYMENTS RECEIVED & EXPENSES AS OF 12/5/2006			\$68,608.80	\$100,495.86
GREEN FAIRWAYS BALANCE DUE TO JOHNSON CONSTRUCTORS LLC			\$31,887.06	

① Rosie please send Greenfairways check for 31,887.06 to Johnson Constructors at 6630 Front Street, Key West 33040

Then send bill to KWKV of Gillian for ~~\$115,495.86~~ 31,887.06 + 10% per Bell 12/6/06

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KW Resort Utilities Corporation
Adjustment to Test Year Revenue

Class/Meter Size	Total Bills	Total Gallons	Present Rates ⁽¹⁾	Annualized Revenue	Proposed Bills	Proposed Gallons	Proposed Rates	Proposed Revenue
Residential								
M Gallons	-	-	0.00	-	72,452	-	4.49	325,309
Total Residential	17,592	-		\$ 710,541	17,592	72,452		\$ 942,436
Average Bill				\$ 40.39				\$ 53.57
General Service								
5/8" X 3/4"	1,080	-	30.73	\$ 33,188	1,080	-	35.08	\$ 37,886
M Gallons	-	12,222	3.40	41,555	-	12,222	5.27	64,410
1"	60	-	74.72	4,483	60	-	87.70	5,262
M Gallons	-	5,099	3.40	17,337	-	5,099	5.27	26,872
1 1/2"	12	-	74.72	897 ⁽¹⁾	12	-	175.40	2,105
M Gallons	-	252	3.40	857	-	252	5.27	1,328
2"	36	-	229.52	8,263	36	-	280.64	10,103
M Gallons	-	24,637	3.40	83,766	-	24,637	5.27	129,837
3"	12	-	454.63	5,456	12	-	526.20	6,314
M Gallons	-	593	3.40	2,016	-	593	5.27	3,125
4"	0	-	454.63	-	0	-	877.00	-
M Gallons	-	0	3.40	-	-	0	5.27	-
8" Turbo	12	-	454.63	5,456 ⁽¹⁾	12	-	3,157.20	37,886
M Gallons	-	6,211	3.40	21,117	-	6,211	5.27	32,732
Total Gen. Serv.	1,212	49,014		\$ 224,389	1,212	49,014		\$ 357,860
Average Bill				\$ 185.14				\$ 295.26
Multi Family (Master Metered)								
Flat Rate / Unit	418	-	40.39	\$ 134,983 ⁽²⁾	-	-	-	-
5/8" X 3/4"	-	-	-	-	346	-	35.08	\$ 12,138
M Gallons	-	-	-	-	-	21,630	5.27	113,990
1"	-	-	-	-	48	-	87.70	4,210
M Gallons	-	-	-	-	-	3,695	5.27	19,473
1 1/2"	-	-	-	-	12	-	175.40	2,105
M Gallons	-	-	-	-	-	151	5.27	796
4"	-	-	-	-	12	-	280.64	3,368
M Gallons	-	-	-	-	-	8,864	5.27	46,713
	418	-		\$ 134,983	418	34,340		\$ 202,793
				\$ 322.93				\$ 485.15

**KW Resort Utilities Corporation
 Adjustment to Test Year Revenue**

Class/Meter Size	Total Bills	Total Gallons	Present Rates ⁽¹⁾	Annualized Revenue	Proposed Bills	Proposed Gallons	Proposed Rates	Proposed Revenue
Reuse of Reclaimed Water Gallonge Charge		<u>60,101</u>	0.45	<u>\$ 27,045</u>		<u>60,101</u>	0.69	<u>\$ 41,470</u>
Private Lift Stations								
5/8" x 3/4"	24		32.51	780	24		35.08	842
M Gallons		<u>159</u>	2.74	<u>436</u>		<u>159</u>	5.27	<u>838</u>
	<u>24</u>	<u>159</u>		<u>\$ 1,216</u>	<u>24</u>	<u>159</u>		<u>\$ 1,680</u>
		<u>Months</u>	<u>Flat Rate</u>			<u>Months</u>	<u>Flat Rate</u>	
Bulk Wastewater								
Safe Harbor Marina		12	1,400.58	16,807		12	1,216.57	14,599
Peninsular Marina		12	1,223.86	14,686		12	1,062.93	12,755
Total Bulk Wastewater				<u>\$ 31,493</u>				<u>\$ 27,354</u>
General Service Multiple Agreement								
Large Swimming Pool		12	161.57	1,939		12	140.32	1,684
Small Swimming Pool		12	47.67	572		12	41.39	497
Total Bulk Wastewater				<u>\$ 2,511</u>				<u>\$ 2,181</u>
Other sewer revenue				<u>72,285</u>				<u>72,285</u>
Total revenue at present/proposed rates				1,204,465				1,648,059
Historic/Proposed test year revenue				<u>(1,012,695)</u>				<u>(1,647,998)</u>
KWRU's Test Year Revenue				<u>1,046,314</u>				
OPC's Test Year Revenue Adjustment				<u>158,151</u>				

(1) When the BFC was not available for this class, the prior level BFC was used.
 (2) Actual test year revenue was used to avoid an unmeaningful result.

Source:
 Company, MFRs, Schedule E-2(a).

K W Resort Utilities Corporation
Operations and Maintenance Expense Comparisons

Account Description	2002	2003	2004	2005	2006
Salaries and Wages - Employees	\$ -	\$ -	\$ -	\$ -	\$ -
Salaries and Wages - Officers, Directors, Stkholders	-	-	-	-	-
Purchased Sewage Treatment	-	-	-	-	-
Sludge Removal Expense	8,422	3,631	4,085	5,537	19,472
Purchased Power	83,081	90,703	100,819	115,120	141,282
Fuel for Power Purchased	-	-	-	-	523
Chemicals	7,485	12,293	12,237	27,490	50,763
Materials and Supplies	54,411	55,609	85,827	77,678	103,361
Contractual Services - Engineering	5,000	54,334	62,709	59,716	65,289
Contractual Services - Accounting	8,464	11,564	10,966	6,761	9,569
Contractual Services - Legal	15,479	23,280	11,851	19,301	15,103
Contractual Services - Mgt. Fees	80,000	80,000	80,000	89,167	60,000
Contractual Services - Testing	1,401	-	78	415	-
Contractual Services - Other	231,684	310,896	294,874	475,247	432,701
Rental of Building/Real Property	-	-	-	-	-
Rental of Equipment	-	306	-	-	11,825
Transportation Expenses	-	-	-	-	-
Insurance - Vehicle	-	-	-	-	-
Insurance - General Liability	2,508	12,097	23,834	23,205	24,646
Insurance - Workman's Comp	-	-	-	-	-
Insurance - Other	-	-	-	-	-
Advertising Expense	-	1,780	29,844	39,610	28,813
Reg Comm Expenses - Amortization of Rate Case	-	-	-	-	-
Reg Comm Expense - Other	-	-	-	-	-
Bad Debt Expense	-	-	144	-	-
Miscellaneous Expenses	42,352	65,527	41,552	50,110	48,380
Total Sewer O & M Expense	\$ 540,287	\$ 722,020	\$ 758,820	\$ 989,357	\$ 1,011,727

	Expense Per ERC				
	2002	2003	2004	2005	2006
Salaries and Wages - Employees	\$ -	\$ -	\$ -	\$ -	\$ -
Salaries and Wages - Officers, Directors, Stkholders	\$ -	\$ -	\$ -	\$ -	\$ -
Employee Pensions and Benefits	#REF!	#REF!	#REF!	#REF!	#REF!
Purchased Sewage Treatment	\$ -	\$ -	\$ -	\$ -	\$ -
Sludge Removal Expense	\$ 8	\$ 3	\$ 4	\$ 5	\$ 14
Purchased Power	\$ 83	\$ 86	\$ 92	\$ 100	\$ 102
Fuel for Power Purchased	\$ -	\$ -	\$ -	\$ -	\$ 0
Chemicals	\$ 7	\$ 12	\$ 11	\$ 24	\$ 36
Materials and Supplies	\$ 54	\$ 53	\$ 78	\$ 67	\$ 74
Contractual Services - Engineering	\$ 5	\$ 51	\$ 57	\$ 52	\$ 47
Contractual Services - Accounting	\$ 8	\$ 11	\$ 10	\$ 6	\$ 7
Contractual Services - Legal	\$ 15	\$ 22	\$ 11	\$ 17	\$ 11
Contractual Services - Mgt. Fees	\$ 80	\$ 76	\$ 73	\$ 77	\$ 43
Contractual Services - Testing	\$ 1	\$ -	\$ 0	\$ 0	\$ -
Contractual Services - Other	\$ 231	\$ 294	\$ 270	\$ 411	\$ 311
Rental of Building/Real Property	\$ -	\$ -	\$ -	\$ -	\$ -
Rental of Equipment	\$ -	\$ 0	\$ -	\$ -	\$ 9
Transportation Expenses	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance - Vehicle	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance - General Liability	\$ 3	\$ 11	\$ 22	\$ 20	\$ 18
Insurance - Workman's Comp	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance - Other	\$ -	\$ -	\$ -	\$ -	\$ -
Advertising Expense	\$ -	\$ 2	\$ 27	\$ 34	\$ 21
Reg Comm Expenses - Amortization of Rate Case	\$ -	\$ -	\$ -	\$ -	\$ -
Reg Comm Expense - Other	\$ -	\$ -	\$ -	\$ -	\$ -
Bad Debt Expense	\$ -	\$ -	\$ 0	\$ -	\$ -
Miscellaneous Expenses	\$ 42	\$ 62	\$ 38	\$ 43	\$ 35
Total Sewer O & M Expense	\$ 540	\$ 683	\$ 694	\$ 857	\$ 727
ERC	1001	1057	1094	1155	1391

K W Resort Utilities Corporation
Operations and Maintenance Expense Comparisons

Account Description	Percent Change				
	2003	2004	2005	2006	AVG
Salaries and Wages - Employees					
Salaries and Wages - Officers, Directors, Stkholders					
Purchased Sewage Treatment					
Sludge Removal Expense	-57%	13%	36%	252%	33%
Purchased Power	9%	11%	14%	23%	18%
Fuel for Power Purchased					
Chemicals	64%	0%	125%	85%	145%
Materials and Supplies	2%	54%	-9%	33%	22%
Contractual Services - Engineering	987%	15%	-5%	9%	301%
Contractual Services - Accounting	37%	-5%	-38%	42%	3%
Contractual Services - Legal	50%	-49%	63%	-22%	-1%
Contractual Services - Mgt. Fees	0%	0%	11%	-33%	-6%
Contractual Services - Testing	-100%		432%	-100%	-25%
Contractual Services - Other	34%	-5%	61%	-9%	22%
Rental of Building/Real Property					
Rental of Equipment					
Transportation Expenses					
Insurance - Vehicle					
Insurance - General Liability	382%	97%	-3%	6%	221%
Insurance - Workman's Comp					
Insurance - Other					
Advertising Expense		1577%	33%	-27%	506%
Reg Comm Expenses - Amortization of Rate Case					
Reg Comm Expense - Other					
Bad Debt Expense			-100%		
Miscellaneous Expenses	55%	-37%	21%	-3%	4%
Total Sewer O & M Expense	34%	5%	30%	2%	22%

Account Description	Percent Change				
	2003	2004	2005	2006	AVG
Salaries and Wages - Employees					
Salaries and Wages - Officers, Directors, Stkholders					
Employee Pensions and Benefits					
Purchased Sewage Treatment					
Sludge Removal Expense	-59%	9%	28%	192%	17%
Purchased Power	3%	7%	8%	2%	6%
Fuel for Power Purchased					
Chemicals	56%	-4%	113%	53%	97%
Materials and Supplies	-3%	49%	-14%	10%	9%
Contractual Services - Engineering	929%	12%	-10%	-9%	210%
Contractual Services - Accounting	29%	-8%	-42%	18%	-5%
Contractual Services - Legal	42%	-51%	54%	-35%	-7%
Contractual Services - Mgt. Fees	-5%	-3%	6%	-44%	-12%
Contractual Services - Testing	-100%		404%	-100%	-25%
Contractual Services - Other	27%	-8%	53%	-24%	9%
Rental of Building/Real Property					
Rental of Equipment					
Transportation Expenses					
Insurance - Vehicle					
Insurance - General Liability	357%	90%	-8%	-12%	152%
Insurance - Workman's Comp					
Insurance - Other					
Advertising Expense		1520%	26%	-40%	377%
Reg Comm Expenses - Amortization of Rate Case					
Reg Comm Expense - Other					
Bad Debt Expense			-100%		
Miscellaneous Expenses	47%	-39%	14%	-20%	-4%
Total Sewer O & M Expense	27%	2%	23%	-15%	9%

K W Resort Utilities Corporation
Operations and Maintenance Expense Comparisons

Account Description	Alternative Normalization Periods			
	3-Year Normalized	Difference	5-Year Amortization	Test Year Adjustment
Salaries and Wages - Employees				
Salaries and Wages - Officers, Directors, Stkholders				
Purchased Sewage Treatment				
Sludge Removal Expense	\$ 9,698	\$ (9,774)	\$ (1,955)	\$ (7,819)
Purchased Power	119,074	(22,208)	(4,442)	(17,767)
Fuel for Power Purchased				
Chemicals	30,163	(20,600)	(4,120)	(16,480)
Materials and Supplies	88,955	(14,406)	(2,881)	(11,525)
Contractual Services - Engineering	62,571	(2,718)	(544)	(2,174)
Contractual Services - Accounting				
Contractual Services - Legal				
Contractual Services - Mgt. Fees				
Contractual Services - Testing				
Contractual Services - Other	\$ 400,941	\$ (31,760)	\$ (6,352)	\$ (25,408)
Rental of Building/Real Property				
Rental of Equipment				
Transportation Expenses				
Insurance - Vehicle				
Insurance - General Liability				
Insurance - Workman's Comp				
Insurance - Other				
Advertising Expense				
Reg Comm Expenses - Amortization of Rate Case				
Reg Comm Expense - Other				
Bad Debt Expense				
Miscellaneous Expenses				
Total Sewer O & M Expense		\$ (101,466)	\$ (20,293)	\$ (81,173)

Account Description	4-Year Normalized	Difference	5-Year Amortization	Test Year Adjustment
	Salaries and Wages - Employees			
Salaries and Wages - Officers, Directors, Stkholders				
Employee Pensions and Benefits				
Purchased Sewage Treatment				
Sludge Removal Expense	\$ 8,181	\$ (11,291)	\$ (2,258)	\$ (9,033)
Purchased Power	111,981	(29,301)	(5,860)	(23,441)
Fuel for Power Purchased				
Chemicals	25,696	(25,067)	(5,013)	(20,054)
Materials and Supplies	80,619	(22,742)	(4,548)	(18,194)
Contractual Services - Engineering	60,512	(4,777)	(955)	(3,822)
Contractual Services - Accounting				
Contractual Services - Legal				
Contractual Services - Mgt. Fees				
Contractual Services - Testing				
Contractual Services - Other	\$ 378,430	\$ (54,272)	\$ (10,854)	\$ (43,417)
Rental of Building/Real Property				
Rental of Equipment				
Transportation Expenses				
Insurance - Vehicle				
Insurance - General Liability				
Insurance - Workman's Comp				
Insurance - Other				
Advertising Expense				
Reg Comm Expenses - Amortization of Rate Case				
Reg Comm Expense - Other				
Bad Debt Expense				
Miscellaneous Expenses				
Total Sewer O & M Expense		\$ (147,450)	\$ (29,490)	\$ (117,960)

K W Resort Utilities Corporation
Operations and Maintenance Expense Comparisons

Account Description	Alternative Normalization Periods			
	5-Year Normalized	Difference	5-Year Amortization	Test Year Adjustment
Salaries and Wages - Employees				
Salaries and Wages - Officers, Directors, Stkholders				
Purchased Sewage Treatment				
Sludge Removal Expense	\$ 8,229	\$ (11,243)	\$ (2,249)	\$ (8,994)
Purchased Power	106,201	(35,081)	(7,016)	(28,065)
Fuel for Power Purchased				
Chemicals	22,054	(28,709)	(5,742)	(22,968)
Materials and Supplies	75,377	(27,984)	(5,597)	(22,387)
Contractual Services - Engineering	49,410	(15,879)	(3,176)	(12,704)
Contractual Services - Accounting				
Contractual Services - Legal				
Contractual Services - Mgt. Fees				
Contractual Services - Testing				
Contractual Services - Other	\$ 349,080	\$ (83,621)	\$ (16,724)	\$ (66,896)
Rental of Building/Real Property				
Rental of Equipment				
Transportation Expenses				
Insurance - Vehicle				
Insurance - General Liability				
Insurance - Workman's Comp				
Insurance - Other				
Advertising Expense				
Reg Comm Expenses - Amortization of Rate Case				
Reg Comm Expense - Other				
Bad Debt Expense				
Miscellaneous Expenses				
Total Sewer O & M Expense		\$ (202,517)	\$ (40,503)	\$ (162,013)

Source: Company Annual Reports; MFRs, Schedule B-6 and F-10.

Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 12

Key West Resort Utilities Corporation
Mr. Smith's Travel Expenses

Sources:
Response to Citizens' POD 28.
Staff Audit Request 25.

**FLORIDA PUBLIC SERVICE COMMISSION
AUDIT DOCUMENT/RECORD REQUEST
NOTICE OF INTENT**

TO: Doug Carter UTILITY: KW Resort Utilities
3625 N.W. 82 ave Suite 400
AUDIT MANAGER: Iliana Piedra PREPARED BY: Miami, Fl 33166
REQUEST NUMBER: 25 DATE OF REQUEST: 10/12/07
REQUEST THAT THE FOLLOWING ITEMS BE PROVIDED BY: 10/17/07
AUDIT PURPOSE Rate Case

REFERENCE RULE 25.22.006, F.A.C., THIS REQUEST IS MADE: INCIDENT TO INQUIRY OUTSIDE OF AN INQUIRY

ITEM DESCRIPTION:

Auto & Travel - 908210000

1. Please explain what the \$1000 payments to Green Fairways for #4 Driftwood represent.

The \$1,000 payments for Driftwood are lodging expenses for Bill Smith.

2. Provide the source documentation for the following amounts

3/06 - \$2,690.60, \$1,884.53 \$2690.60 (2/19 - 2/26/06), \$1884.53 (3/19-3/26/06)

Rental Car and Air Plane Fuel for Bill Smith (Attached)

5/06 - \$3,577.65 (4/14 - 4/24/06 and 4/27-4-30/06)

Rental Car and Air Plane Fuel for Bill Smith. (Attached)

11/06 - \$2,622.74 (10/20 - 10/30/06)

Rental Car and Air Plane Fuel for Bill Smith. (Attached)

Advertising Account - 908310000

1. What do the \$2,500 payments to William Barry represent?

On April 11th 2003, at a Monroe County Commission Meeting, a report was submitted by The Director of Marine Resources responding to concerns raised by Stock Island property owners at the previous January Commission meeting. In the report the county states, "Staff believes that more time should be spent discussing options with property owners by KWRU. More time needs to be spent informing future users of the KWRU wastewater system, educating them about process, etc." Therefore, KWRU hired William Barry to handle public relations, create public awareness, and answer any media or county questions. Back up of Utility newsletters, etc. and other written correspondences will be provided to Paul.

TO : AUDIT MANAGER

DATE: _____

THE REQUESTED RECORD OR DOCUMENTATION:

- (1) HAS BEEN PROVIDED TODAY
- (2) CANNOT BE PROVIDED BY THE REQUESTED DATE BUT WILL BE MADE AVAILABLE BY:
- (3) AND IN MY OPINION, ITEM(S) _____ IS (ARE) PROPRIETARY AND CONFIDENTIAL BUSINESS INFORMATION AS DEFINED IN 364.183, 366.093, OR 367.156, F.S. TO MAINTAIN CONTINUED CONFIDENTIAL HANDLING OF THIS MATERIAL. THE UTILITY OR OTHER PERSON MUST, WITHIN 21 DAYS AFTER THE AUDIT EXIT CONFERENCE, FILE A REQUEST FOR CONFIDENTIAL CLASSIFICATION WITH THE DIVISION OF RECORDS AND REPORTING. REFER TO RULE 25-22.006, F.A.C. OF RECORDS AND REPORTING. REFER TO RULE 25-22.006, F.A.C.
- (4) THE ITEM WILL NOT BE PROVIDED. (SEE ATTACHED MEMORANDUM)

(Signature and title of respondent) _____

Distribution: Original: Utility (for completion and return to Auditor)
Copy: Audit File

To: Giblin

W. Smith Trip to New West
Feb 19, - Feb 26 2006

Rental Car	490.60
Fuel	22.00
	<u>\$2690.60</u>

[Signature]

Gillian

W. Smith trip to Key West
3/19 - 3/26

Fuel ~~160~~
Car Rental 284.53

1884.53

PAY EXACTLY TWO THOU

ORDER OF: WILLIAM SMITH

Gillian - 5/16

WLS Expenses
4-14 to 4/24
4-27 to 4/30

Fuel \$20.00
Rental Car 580.65

Air Fare \$663
335

3577.65

Gilman -

W L Smith Expenses 10/20-10/30

1) Fuel \$2200
2) Car Rental 422.74
\$2622.74

[Handwritten signature]

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REDACTED

Security Embossed Document. See back for details.

2032

**K. W. UTILITIES
OPERATING ACCOUNT**
PO BOX 2125
KEY WEST, FL 33045

DATE January 1, 2005 IS-715/201
2005

PAY TO THE ORDER OF Green Fairways - \$ 1000.00

ONE THOUSAND — and no 100 DOLLARS & 00/100

BB&T
BANK OF BRITAIN (AMERICA) CORPORATION
KEY WEST, FLORIDA

FOR _____

A check in the
amt of \$1000
was cut every 2nd
month - To reimb
for WLS monthly
trips Chicago - Key West
Bill
I'm only making a copy of
1 ch - assume common sense!

Island City Flying Service, Inc.
 3471 South Roosevelt Boulevard
 Key West, FL 33040

Statement

Date
2/28/2006

To:
BILL SMITH KEY WEST GOLF CLUB 6450 JR. COLLEGE ROAD KEY WEST, FL 33040

		Amount Due	Amount Enc.		
		\$195.04			
Date	Transaction	Amount	Balance		
01/31/2006	Balance forward		460.00		
02/18/2006	PMT #045484.	-460.00	0.00		
02/26/2006	INV #8523. 737E	195.04	195.04		
<i>KWRU (March)</i>					
CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
195.04	0.00	0.00	0.00	0.00	\$195.04

Statement

Island City Flying Service, Inc.
 3471 South Roosevelt Boulevard
 Key West, FL 33040

Date
6/30/2006

To:
BILL SMITH KEY WEST GOLF CLUB 6450 JR. COLLEGE ROAD KEY WEST, FL 33040

kwru in July

Date	Transaction	Amount Due	Amount Enc.	Amount	Balance
		\$165.23			
05/31/2006	Balance forward				
06/10/2006	PMT #045922				1,156.61
06/25/2006	INV #9632. 737E			-1,156.61	0.00
				165.23	165.23

CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	Amount Due
165.23	0.00	0.00	0.00	0.00	165.23

Gilman

W. South trip to Key West
3/19 - 3/26

Fuel ~~1600~~
Car Rental 284.53

1884.53

1 Gwen Smith

1 Reimburse - Hat Tin Roof
from ICWRA. Dinner Chris Lehner
\$249.21

Gillian - 5/16

WLS Expenses
4-14 to 4/24
4-27 to 4/30

Fuel \$2000
Rental car 580.65

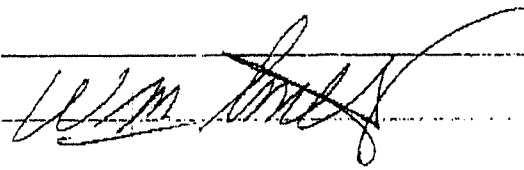
Air Fare \$662
335

3577.65

Gillian -

W L Smith Expenses 10/20-10/30

1) Fuel \$ 2,200
2) Car Rental 422.74
\$ 2622.74



Credit Card Itemization

1/24/06-2/23/06

Keys Environmental, Inc.

Chris Johnson

Date	Store/vendor	Item		
1/22/2006	Southernmost Motel	Receipt already turned in	677.47	— KWRU
1/26/2006	Beckers Steel Fabrication	Jl 2346	337.7	KEI
1/30/2006	Dions	Receipt Green 150	57.37	KEI
1/30/2006	Marvair	Jl 2228	283.78	KEI
2/1/2006	Finnegans Wake	Receipt Utility lunch	16.92	— KWRU
2/3/2006	MSN Dial Up Subs	cancel as of 3/9/06	21.95	— KWRU
2/7/2006	Marvair	Jl 2161	172.8	KEI
2/16/2006	Braas Co.	Jl 2410	502.48	KEI
2/16/2006	Key West Engine Co.	Jl 2166	312.00	KEI
2/19/2006	Northern Tool	Jl 2446	410.59	KEI
2/19/2006	Shell Oil	Receipt Green 150	44.43	KEI

KWRU

KE

Total

~~677.47~~
~~337.7~~
~~57.37~~
~~283.78~~
~~16.92~~
~~21.95~~
~~172.8~~
~~502.48~~
~~312.00~~
~~410.59~~
~~44.43~~
~~2,837.49~~

KWRU - auto + Trav

677.47

Misc

38.87

716.34

Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 13

Key West Resort Utilities Corporation
Public Relations Letters

Sources:
Response to Citizens' Interrogatory 20.

KW RESORT UTILITIES, Corp.

Providing Environmentally Friendly & Cost-Efficient
Wastewater Solutions for the Lower Florida Keys

August 16, 2005

Debra Harrison
Director
South Florida World Wildlife Fund
8075 Overseas Highway
Marathon, FL 33050

Dear Debra:

I listened to your radio interview with newscaster Don Riggs concerning the meeting in Tallahassee you attended with the Governor. Thank you for your efforts to preserve and protect our Florida Keys environment.

As a representative of KW Resort Utilities, Corp. (KWRU) I would like to address your comment on the radio that the Harbor Shores Condominium (mobile home park) on south Stock Island *cannot* connect to the wastewater collection system because there is *not* an infrastructure available.

Please find attached a photo of where the KWRU infrastructure (wastewater connection line) meets the property line of Harbor Shores; the underground infrastructure in place is marked by the painted stripe on the street and sidewalk. Also attached is a special report addressing the history and current status of the south Stock Island wastewater project installed and operated by KWRU.

If I can assist you with any questions or additional information on the south Stock Island wastewater project please give me a call.

Again, my appreciation for your work on behalf of all Keys residents,

Bill Barry
wmbarry47@aol.com
(305) 304 1264

Copy: Don Riggs
Bill Becker
Tom Tuell
Alyson Matley

Contact: Bill Barry
Cell: 305 304 1264
Fax: 305 768 0168
Wmbarry47@aol.com

For Immediate Release
April 02, 2005

Public Statement
Monroe County, Lower Keys Public Wastewater Forum
Tennessee Williams Center, FKCC

My name is Bill Barry; I have a statement to make as the Spokesperson for KW Resort Utilities Corporation.

The utility company remains steadfast in its position that the wastewater vacuum collection system it installed on south Stock Island is effective, cost efficient and capable of handling the wastewater collection and treatment needs of south Stock Island now and beyond a 20-year horizon. This has been attested to by an outside \$150,000 engineering audit.

The pro-longed political differences surrounding wastewater construction in the Lower Keys have become so severe, that the business of wastewater construction has become exhaustive for the staff of a small utility company. KW Resort Utilities wastewater engineers and system employees are the most trained, experienced and competent wastewater staff in the Florida Keys.

The political struggle over the control of wastewater funds are damaging to those involved and negatively impact the ability to effectively implement a major wastewater construction project.

The utility company is confident that it can install an efficient wastewater system and at the lowest cost for the Big Coppitt, Geiger and Rockland communities; however, KW Resort Utilities will no longer subject its staff to the negative political process and press that is plaguing the progress of Keys wastewater construction and doubling the cost of wastewater systems for the property owners of Monroe County.

Therefore, KW Resort Utilities is withdrawing its \$16.7 million bid submitted in July 2003 at the request of the County to sewer Big Coppitt Geiger and Rockland Key and further will not propose to install a wastewater collection system on Big Coppitt, Geiger and Rockland Key.

Respectfully,

Bill Smith
President,
KW Resort Utilities Corporation
Stock Island, FL

KW RESORT UTILITIES, Corp.

*Providing Environmentally Friendly & Cost-Efficient
Wastewater Solutions for the Lower Florida Keys*

October 9, 2007

Commissioner Dixie Spehar
500 Whitehead Street, Ste. 102
Key West, FL 33040

William M. Barry
Spokesperson
p 305.240.0898
f 305.768.0168
wmbarry@bellsouth.net

Re: KWRU rate increase relationship to AWT costs

Dear Commissioner Spehar:

In regard to your question concerning the KW Resort Utilities, Corp. planned rate increase and the relationship to AWT costs, please find attached are 2 documents.

One is Monroe County BOCC Resolution No. 595 202 enacted Dec. 18, 2002. It carried a unanimous (5-0) approval. A lot of water has gone under the Cow Key Bridge since that date. Understandably, passing hundreds of resolutions a year -- one that appeared inconsequential 5-years ago would not be fore front today.

Section 3 of the Resolution reads: "KWRU is allowed to recover costs of the conversion to AWT (both in construction and operation and maintenance costs), above and beyond the \$600 amount per EDU advanced to KWRU by the County for the conversion)."

KWRU owner Bill Smith has no recollection that he or any of his management staff ever committing that their utility company would absorb years of financial losses without relief. Due to connection resistance and the need to still employ County Code Enforcement 5-years after completion of the 1,550 EDU south Stock Island wastewater collection project - the utility company has suffered financial losses for 5-consecutive years. As an example, the Key West 12,000 EDU wastewater project largely was completed in 2-years -- including homeowner's replacing failed lateral lines.


This is KWRU's first application with the Florida Public Service Commission for a rate increase in over 22-years.

The other document is a June 10, 2002 memorandum from KWRU owner and President Bill Smith to the Monroe County Administrator clarifying a planned future rate increase as a result of the conversion to AWT. The increase planned 5-years ago was \$8 per month. This does not include the nominal cost of living increase authorized annually for all regulated utility companies by the Florida PSC.

As you know, the PSC conducts a thorough audit including public hearings of any Florida regulated utility company's rate request and only approves a rate increase amount the PSC deems fair and appropriate.

Please advise if I may be of further assistance.

With Regards,


Bill

KW RESORT UTILITIES Corp.

6450 East Junior College Road, Key West, FL 33040

P 305.294.9578

www.KWRU.com

info@KWRU.com

Fax 305.294.1212

KW RESORT UTILITIES, Corp.

*Providing Environmentally Friendly & Cost-Efficient
Wastewater Solutions for the Lower Florida Keys*

December 21, 2005

Dear Monroe Board of County Commissioners:

KW Resort Utilities Corp. is pleased for the opportunity to meet before you today and to present this year-end summary of the Stock Island wastewater project.

Over a year ago our utility company increased the staffing size of its' engineering and administrative personnel to meet the direction provided by the BOCC at its' special Nov. 29, 2004 meeting to complete the Stock Island EDU connections with expedience. While there has been great cooperation and communication between the county staff and the utility company personnel towards the connection objective, the progress of EDU connections has been slow. The reason for this situation appears to be an over tasked County Code Enforcement staff combined with the frequent storm related distractions and set backs.

We hope our summary report and subsequent recommendations will be helpful to the BOCC and its desire to complete the Stock Island wastewater connections.

And finally, the staff, management and associates of KW Resort Utilities wish all of you Happy Holidays and a successful and storm free 2006!

KW RESORT UTILITIES, Corp.

William L. Smith, Jr.
Owner / President
Doug Carter
General Manager
Gillian Seifert
Chief Financial Officer
Judi Irizarry
Customer Accounts Manager
William M. Barry
Company Spokesperson

Keys Environmental, Inc.

Christopher A. Johnson
President
Mark Burkemper
Senior Plant Operator
Dan Saus
Instrumentation/Calibration Specialist
Richard Rice
Plant Operator
Dan Wojtulewicz
Hookup Coordinator
Paul Sanchez
Maintenance Technician
Curtis Massie
Senior Maintenance Mechanic
Albert Gonzalez
Vacuum Truck Operator
Patricia Coats
Administrative Specialist

Weiler Engineering

R. Jeff Weiler, PE
Consulting Engineer
Ed Castle, PE
Project Manager

Airvac

Clint Hawn
Airvac Service Manager

KW RESORT UTILITIES Corp.

6450 East Junior College Road, Key West, FL 33040

Tel (305) 294 9578 •

www.KWRU.com •

info@KWRU.com •

Fax (305) 294 1212

Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 14

Key West Resort Utilities Corporation
Public Relations Samples

Sources:
Response to Citizens' Interrogatory 20.
The Key West Citizen, November 3 and 28, 2007.

-- Customer Pipe Line --

Your Direct Connection to KW Resort Utilities, Corp.

KW Resort Utilities customers pay lowest monthly wastewater rate in Monroe County...

The residents of south Stock Island served by the KWRU wastewater system have the lowest monthly sewer bill in Monroe County. The monthly charge of \$37.93 for customers of the privately owned utility company has remained the lowest monthly wastewater fee in Monroe County since the south Stock Island

wastewater project was completed almost 3-years ago.

"We run an efficient shop and the customers benefit as a result of our staff paying close attention to costs." states KWRU General Manager, Doug Carter.

We are also proud of our customer service record, Carter said.

KWRU provides wastewater treatment to over 2,800 homes and businesses on Stock Island. Wastewater is processed into reuse water for Monroe County and private business use.

South Stock Island new customer wastewater hook-up fee least expensive in the Keys...

The KW Resort Utilities, Corp. wastewater connection fee has not changed in over a decade.

"At \$2,700 the hook-up to the wastewater system is the lowest fee available in the county – something we are proud of." said Chris

Johnson, President of Keys Environmental, Inc. that operates the wastewater system for KWRU.

KWRU: ready & waiting to connect remaining 1,000 Stock Island homes & businesses to new wastewater system...

It has been almost 3-years since KW Resort Utilities completed installation of 24,000 linear feet of vacuum wastewater pipe to extend sewer services to south Stock Island.

The 4.5-mile area of nearly 1,500 homes and businesses did not have sewer services available and property owners were

using no longer-approved septic, cesspit and package plant waste systems.

In July 2003, the KWRU wastewater collection lines were placed *adjacent* to all the 1,500 homes and businesses and have remained ready for customer connection. The \$4 million project will also

help clean our near-shore Keys waterways.

Any of the remaining 1,000 property owners on south Stock Island that need to connect to the system (required by State law) can call the KWRU hook-up info line at 305 295 3301 for complete information on how to connect.

Need a plumber?

The Monroe County Building Department can assist in preparing properties for sewer line connection.

Monroe County Building Department at: (305) 292 4490.

Property Owners *should confirm* that their plumber's Monroe County License is *still* active and may do so by telephoning the

Note: A Key West *only* Plumber License is *not* sufficient to perform plumbing work on Stock Island.

KW Resort Utilities Sewer Hook-Up Info Line: (305) 295 - 3301

Sewer hook-ups help clean our Lower Keys environment...

Each hook-up helps eliminate the pollution that has contributed to the contamination of our near-shore Lower Keys waterways. The regular

closure of our beaches by the County Health Department not only impacts our environment, it also hurts the Keys economy, creating a loss

of tourist related jobs and wages. Help clean the Keys by connecting to the sewer system; call for free information today!

Cayo Hueso & Tortuga West connect 28-units to south Stock Island wastewater system...

Cayo Hueso Mobile Home Park with 10 units and Tortuga West with 18 units have joined the increasing number of south Stock Island property owners who have connected to the central wastewater treatment system. The connections will be

completed in May. "It all comes together easily when property owners such as Cayo Hueso & Tortuga West commit to connect to the system and focus on how to make it work with their engineer and the utility company" said Doug Carter, KWRU

General Manager. *We congratulate Cayo Hueso & Tortuga West on their leadership and example towards Monroe County's goal of completing wastewater connections on south Stock Island.*

KW RESORT UTILITIES, Corp.

Offering Environmentally Friendly & Cost-Efficient Wastewater Solutions for the Lower Florida Keys

KW RESORT UTILITIES, Corp.

William L. Smith, Jr.
Owner / President
Doug Carter
General Manager
Gillian Seifert
Chief Financial Officer
Judi Inzarry
Customer Accounts Manager

Spokesperson

William Barry

Keys Environmental, Inc.

Christopher A. Johnson
President
Mark Burkemper
Senior Plant Operator
Ruben Gutierrez
Plant Operations
Richard Rice
Plant Operator
Dan Saus
Instrumentation Specialist
Curtis Massie
Maintenance Supervisor
Dan Wojtulewicz
Hookup Coordinator

Patricia Coats
Administration Specialist

Weiler Engineering

R. Jeff Weiler, PE
Consulting Engineer
Ed Castle, PE
Project Manager

Airvac

Clint Hawn
Service Manager

OPINION

BECKY IANNOTTA
ED BLOCK

Wastewater system is hurricane proof

In Paul Dee's letter "Flooding would render sewer system useless," *The Citizen*, Sept. 28, Mr. Dee criticizes Monroe County government leadership for their selection of a vacuum wastewater collection system on Stock Island instead of a gravity flow system. Mr. Dee's reason for opposing the County's decision is based on a misunderstanding of how a wastewater vacuum collection system operates.

Dee cites "each customer must supply and pay for the electricity to pump his effluent into the vacuum tube (main) in the street." The fact is that a vacuum collection system uses gravity flow from the customer's property to the vacuum main in the street. No electricity is required by the customer.

Second, Dee states "during a hurricane or power loss, the system cannot function." This is not true. During a hurricane or other related power outage the vacuum collection system will continue to operate since all of the vacuum collection pumps are located in a Category 5 building with an auto back-up power generator system.

lection system has lift pump stations scattered throughout a community that must operate off power transmission lines. Gravity collection lift pumps are subject to power outages.

And that's not all. The lift pumps are scattered throughout the island from a candy cane zone that is exposed to floodwaters that would render the whole contraption useless." The vacuum air vents are all placed above a 25-year flood level. ...

Our Monroe County government leadership made the best choice for Stock Island property owners with their selection of a vacuum system. FCAA Executive Director Jim Reynolds (an engineer) also agrees that a vacuum system can be an efficient and effective choice for wastewater collection.

South Stock Island residents and the environment may not have been spared the recent Hurricane Rita but they were saved from raw sewage backup into homes and the environment due to a dependable fail-safe vacuum collection system with pumps and backup generators housed in a Category 5 building.

Bill Barry

Shame on you George!

Shame on you George! Commissioner George Neugent's Wed. Aug. 23 Citizen column "*Is cost efficiency a good thing only when it benefits a for-profit company?*" is another example of what State Rep. Ron Saunders means when he stated in a recent interview concern about the reputation in Tallahassee of our BOCC "*spending their time fighting each other*". This behavior is hurting our ability to get desperately needed state funding.

In his column Commissioner Neugent asked: "*Why do you want to pump effluent to KW Resort Utilities from Big Coppitt, when in doing so it enriches exponentially, with every tax dollar spent, a private for-profit corporation?*"

Answer: By example: The U.S. Navy is privatizing utility services to private for-profit corporations. Why? Because the Navy understands that private companies that survive by paying their own expense have expertise and focus on the service they provide and are able to perform those services in a more cost efficient manner than government.

Most citizens accept the conventional thinking that private industry can provide services more cost effective and efficient than government. How many disagree with that premise?

There is more pricing and profit control over a private for-profit utility than a government agency. To have a rate increase KW Resort Utilities must seek the approval of the state Public Service Commission. Local hearings are advertised and held in the community. The PSC will audit and approve only a limited profit margin for the utility – which must have funds to reinvest in maintaining the infrastructure.

OPINION

BECKY IANNOTTA/PROJECTS EDITOR
ED BLOCH
RALPH MORROW/SPORTS EDITOR
SHIRLEY FREEMAN
CHARLIE BRADFORD

Letters to the editor

Private sewer utility can save county millions

This past Friday, The Citizen was the messenger of ill tidings for county employees ...

The county has a \$3.4 million shortfall in its proposed budget for the upcoming fiscal year.

The Marine Resources Department [has] been eliminated to save \$500,000 a year. Another 40 to 60 county jobs have been considered for cuts, including 28 vacant positions that will not be filled.

In the interest of our county employees and the residents they serve, KW Resort Utilities appeals to the County Commission to make a decision that will save \$5.5 million for the county in the coming year; a decision that will save \$440,000 each year thereafter. This decision will also save all Lower Keys residents up to \$400 a year on their sewer bills. ...

When the going gets tough, tough decisions must be made. In this difficult budget environment, our County Commission has the challenge and the responsibility to make decisions that are free of political bias or that sustain old vendettas. [They should make] decisions that will best serve the interest of the residents and taxpayers of our Keys community.

The county has been a customer of KWRU for seven years and has saved over \$1 million in costs since the county jail connected to the utility's wastewater system. This also freed up a parcel of property for the county.

ally as a customer of KWRU.

The Stock Island wastewater facility owned by KWRU serves over 2,500 customers, also problem free, and its customers enjoy the lowest sewer bill in the county.

All of the wastewater received at the KWRU plant is processed into re-use water and is used by the county and other businesses (not injected in wells). This environmental action saves over 110 million gallons of our Florida Keys Aqueduct Authority drinking water supply each year. That water savings number will double should the county make the decision to connect to the KWRU Stock Island system.

In the simplest terms, the county can contract with FKAA to build a new \$8.2 million wastewater plant on Rockland Key or decide to bypass Rockland and connect to the current Stock Island facility ... and save the budget and taxpayers \$5.5 million up front and \$440,000 annually. ...

The residents of Big Coppitt, Geiger and Rockland Key will continue to be customers of FKAA, who will operate their collection system and handle service and billing.

The decision to connect to an existing plant will also free up the county land on Rockland Key, which then could be sold and the proceeds used for something like affordable housing. ...

The complete details of these straightforward savings [are available at:] http://monroecofl.virtualtownhall.net/monroeCoFL_BOCCAgendas/

meet this Wednesday to discuss this decision. ... If your decision is to provide the county and its residents these substantial savings, please let your commissioner hear from you.

William Barry, spokesman
KW Resort Utilities

Clean up Key West one mess at a time

I wonder about all these folks who are outraged about Wisteria Island/Christmas Tree Island?

If I owned property, I would like to think I could either sell it or develop it. Otherwise what value is it? Why don't some of you who are so upset get a group of folks together and buy it from Mr. Bernstein and whom ever else owns it? A wild refuge might be an asset to you, but the current owners don't seem to agree.

Why does anyone think, "I'm sure the citizens of Key West would strive to clean it up and maintain it?" How can that be said in the same letter that even mentions Higgs Beach? Our family loved watching the volleyball players there, parents teaching youngsters to ride their first bikes, families using the picnic shelters to celebrate birthdays and holidays. ... It saddens me to see the beautiful memorials and lights being abused. ...

This past winter the homeless used the grills for their personal fireplaces and countless police drove by and did nothing. If you are brave enough to walk by there in the evenings you can watch all kinds of drug transactions as well as drunks fighting

ty's not going to take care of it, the city's not going to take care of it and the volunteers aren't in sight. No one will take care of a park on Wisteria Island either. Key West needs to start cleaning up one mess at a time.

When I am in town, I seriously pick up every piece of trash I see. It is an old Girl Scout habit of leaving everything cleaner than I found it. I do that because I have been enjoying Key West for 24 years and I want to be a good steward and, hopefully, set an example for someone else. I am asking, when you see trash, pick it up. ...

This is a small island. Surely, you want to preserve your public areas? Why battle over private property that belongs to someone else when public property is in shambles? I just don't understand.

One thing that could possibly help: Many of these undesirables come in beat-up cars, vans and even RVs and park all over around the Casa Marina, the dog park, the tennis courts, the White Street Pier and Higgs Beach. Key West loves parking meters — put some up. The locals walk or bike so they won't be affected. Tow these vehicles. Maybe the folks who own them will get in their beat-up cars and head elsewhere. For sure, they shouldn't be allowed to live in their vehicle at public parks (or even near them) when the good citizens of Key West and longtime tourists who care for your island are no longer able to enjoy the same facilities. ...

Contact:
William M. Barry
618 Dey Street
Key West, FL 33040-6609
Hm/Off: 305.292.2729
Cell: 305.240.0898
e-Fax: 305.768.0168
wmbarry47@aol.com

August 24, 2007

**Stock Island, FL
- For Immediate Release -
KW Resort Utilities, Inc.
Statment**

FKAA proposes to build a regional sewer plant on Rockland Key that includes capacity to handle Key Haven's wastewater. The present Key Haven plant does not meet DEP requirements.

FKAA does not want to include the expense of running their collection line to Key Haven from the proposed Rockland plant in cost comparisons to using the present KW Resort Utilities regional wastewater plant on Stock Island. If built, the FKAA Rockland Key wastewater plant would be only 3-miles from the present KWRU plant.

FKAA wants to pass its Key Haven collection line expense from its proposed Rockland plant to KWRU as part of the cost of connecting to KWRU on Stock Island. This is a gross manipulation of numbers with disregard to the final impact to the taxpayers of building a second regional wastewater plant.

It is as simple as 1-2-3. By example: when 1-regional high school can handle all the students in the Lower Keys why would you build 2-regional high schools only 3-miles apart? One school or 1-wastewater plant is a lot less money than 2; today and for the next 50-years. Taxpayers do not have to be an engineer or an accountant to understand that 1 cost less than 2..

Charlie Crist
GOVERNOR

William L. Smith, Jr. & Gwenn Smith
& Family

Cordially Invite You to a Reception Honoring

ATTORNEY GENERAL CHARLIE CRIST

Florida's Next Republican Governor

Saturday, April 29th, 2006
4:00p.m. – 6:00p.m.

At the Home of William L. Smith, Jr. & Gwenn Smith
4 Driftwood Drive
(Key Haven)
Key West, Florida

Valet Parking Available

Please RSVP to Lori by April 20th

Tel: 305 849 3200 or Email: KeyWestLori@aol.com
Please include the full name of all attending in your party.

Complete both sides of the Reply Card and return as indicated.

Contribution \$250 per person, amounts up to \$500 per person is allowable.

The purchase of a for, or a contribution to, the campaign fundraiser is a contribution to the campaign of Charlie Crist. Contributions are not tax deductible. The maximum contribution Allowable by law is \$500 per person or business entity in an election cycle.

Paid Advertisement paid for and approved by Charlie Crist, Republican, for Governor

William M. Barry

618 Dey Street, Key West, FL 33040-6609
Tel. 305 292 2729 • Cell 305 304 1264 • E-fax 305 768 0168
WMBarry47@aol.com

April 12, 2006

To: Meredith O'Rourke
Copy: WL Smith, Jr., Lori Thompson

From: William Barry

Re: Suggested phone calls to be made by the Attorney General for the April 29th Reception

Dear Meredith:

Great speaking to you!

Thank you for the offer to have the Attorney General make a few phone calls to some of our most desired guests to attend the April 29th Key West Charlie Crist Reception. If I can be of any assistance regarding the attached recommended guest list for the AG to contact – please do not hesitate to call.

Continued Success,

Bill

Portion of the Invitation Card reads as follows...

William L. Smith, Jr. & Gwenn Smith

Cordially Invite You to a Reception Honoring

ATTORNEY GENERAL CHARLIE CRIST

Saturday, April 29th, 2006
4:00p.m. – 6:00p.m.

At the home of William L. Smith, Jr. & Gwenn Smith
4 Driftwood Drive
(Key Haven)
Key West, Florida

Valet Parking Available

Contribution \$500 Per-Person or Business Entity

RSVP to Lori by April 20th
Tel: 305 849 3200 or Email: KeyWestLori@aol.com

KW RESORT UTILITIES

Providing Environmentally Friendly & Cost-Efficient Wastewater Solutions for the Lower Florida Keys

*Invites all present and
Soon to be Stock Island customers to our...*

Open House!

Friday, April 22

4:30pm – 6:30pm

Beer, Wine, Beverages & Hors d'oeuvres

See and Learn How Wastewater Becomes:

- Keys Reusable Water
- Environmentally Friendly Uses
- System Connection Questions & Answers

Meet County & State Wastewater Officials:

Monroe County Mayor, Dixie Spehar

Monroe County Wastewater Liaison, Commissioner Sonny McCoy

Monroe County Administrator, Tom Willi

FL Dept. of Health Director, Dr. Susana May, MD

FL Dept. of Protection, Environmental Supervisor, Nancy Brooking

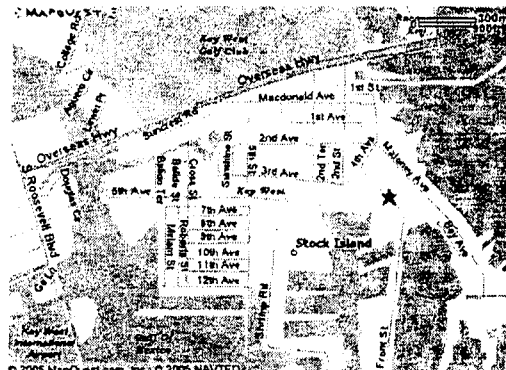
Directions to: KW Resort Utilities

From Key West heading north:

Turn RIGHT by Chico's Rest. onto McDONALD AVE.
Go 1 mile Turn SLIGHT RIGHT onto MALONEY AVE.
In one-tenth of a mile turn RIGHT onto 4TH AVE.
Slightly over one-block Turn LEFT onto FRONT ST.
KW Resort Utilities entrance is 100 ft. on the RIGHT

From Lower Keys heading south:

Turn LEFT onto 3RD ST. (just after Murray Marine on left)
One-tenth of a mile Turn LEFT onto McDONALD AVE.
An immediate SLIGHT RIGHT onto MALONEY AVE.
In one-tenth of a mile Turn RIGHT onto 4TH AVE.
Slightly over one-block Turn LEFT onto FRONT ST.
KW Resort Utilities entrance is 100 ft. on the RIGHT



KW Resort Utilities, Corp.
6630 Front Street, Stock Island

From *The Key West Citizen*

November 3, 2007

State: Utility hampers probe
PSC lacks data
from KWRU to
justify rate hike

BY TIMOTHY O'HARA

Citizen Staff

A state agency reviewing a sewage rate increase for Stock Island residents claims KW Resort Utilities is hindering its investigation by not providing the documents it requested.

The Office of Public Counsel, which represents the Public Service Commission, filed a motion on Wednesday asking an administrative hearing officer to compel the private utility to answer its request for information, and grant an extension for its investigation.

"[The utility] failed to provide any reason why the documents requested have not been produced," wrote the agency's attorney, Stephen Reilly. "The citizens are dismayed at the utility's complete and utter disregard for the [Public Service] Commission's amended procedural ordinance and the discovery dates set in that order."

The commission needs the documents to prepare questions for KW Resort Utility executives to answer about their proposed rate increase.

"This is an extremely complex case involving a time span of over 20 years since the utility last filed a rate case; numerous affiliate relationships, and a grand jury investigation concerning a central vacuum sewer system added to the company's rate base," Reilly wrote. "The company's delay in responding ... is a detriment to the citizens' ability to prepare for the filing of its pre-filed direct testimony."

Utility spokesman Bill Barry said the company intends to comply with the request, which he called voluminous. He said it is time-consuming to collect the necessary documents.

In the last two months, the utility has retained two attorneys, two public accountants and used two internal accountants and one manager to address almost 150 requests for information, Barry said.

"The responses ... required hundreds of hours of research, thousands of pages of documents that fill several boxes," Barry said. "The Key West Resort Utility legal and accounting costs incurred to address these interrogatories have reached \$200,000. This is the utility company's first rate increase request in 20 years."

The proposed rate increase, the first since 1985, would cost customers an average \$12 a month, which is less than what the Florida Keys Aqueduct Authority charges, Barry said.

The Office of Public Counsel plans to have an engineer inspect the utility's Stock Island plant on Nov. 15. Reilly said he also wants to take depositions from plant workers and executives on Nov. 14.

"We are going through a lot of documents and it requires a lot of effort," Reilly said. "We are on an accelerated timetable. ... This compromises our ability to obtain direct testimony."

Public Service Commissioner Nancy Argenziano, acting as the hearing officer, ordered the utility to give at least 150 documents to the Office of Public Counsel and answer at least 300 questions from the state agency that works on behalf of ratepayers and citizens of the state of Florida.

The Office of Public Counsel is reviewing financial transactions and records and has hired an engineer to inspect improvements the utility argues justify its need for a rate increase. The utility also wants to increase its working capital.

The Public Service Commission approved an interim 21 percent rate increase, after the utility requested a 58 percent rate increase. The 21 percent increase, which translates to an \$8 a month hike for customers, will be placed in an escrow account until investigators determine if the rate increase is justified. If not, the money will be refunded to ratepayers, Reilly has said.

The Office of Public Counsel is investigating the utility's ties to other businesses that company owner William L. Smith Jr. either owns or in which he has a business interest. He has contracted the billing and administration to his Green Fairways company, which leases the Key West Golf Course. Smith's law firm also provides legal services to the utility. And Smith's son-in-law, Chris Johnson, is president of Keys Environmental Inc., which is tasked with running the utility's treatment plant.

tohara@keysnews.com

Published on Saturday, November 3, 2007

From *The Key West Citizen*

November 28, 2007

State makes 2nd court request for KWRU data

BY TIMOTHY O'HARA

Citizen Staff

A state agency investigating whether KW Resort Utilities should raise its rates is continuing to battle with the Stock Island sewer utility over access to documents.

The Office of Public Counsel, which represents Stock Island ratepayers, filed another motion with the Public Service Commission on Monday requesting documents and information. The Office of Public Counsel called the utility's response to requests "inadequate or nonexistent."

In the motion sent Monday, the Office of Public Counsel said KW Resort Utilities "provided vague references" to document requests and that the "vague references do not constitute bona fide answers."

The state agency is under a tight deadline, as the two sides will go before a Public Service Commission panel in February. They will return before the commission in a trial-like setting on April 22, and a ruling will be rendered at the commission's next meeting, on May 7.

The Office of Public Counsel attorneys sent a list to the Public Service Commission requesting 35 documents they already have requested and answers to questions already asked of KW Resort Utilities.

The request list includes detailed information on how much utility owner Bill Smith is paid, updated cost estimates, inspection fees and the relationship between the utility and the Key West Golf Club, both of which Smith owns.

It is the second motion the Office of Public Counsel attorneys have sent to the Public Service Commission in which they charge the private utility with not producing documents or answering questions.

As of Nov. 20, KW Resort Utilities had produced some of the documents, but not all of them.

"As a result, the citizens [ratepayers] are left with no alternative but to return and beseech the commission to again compel KW Resort Utilities to provide this relevant discovery information and to impose sanctions as appropriate for the failure to provide the information," Office of Public Counsel attorney Stephen Burgess wrote.

KW Resort Utilities spokesman Bill Barry argued the utility has sent the Office of Public Counsel "thousands" of documents in 12 boxes. One box the utility recently sent weighed more than 100 pounds, Barry said. He added that the company has lost more than \$100,000 in revenue per year for the past five years.

"The Office of Public Counsel is spending a half-million dollars to \$750,000 of taxpayer money to keep a company profitable and come up with a rate that is equal to or less than that of the [Florida Keys] Aqueduct Authority," Barry said.

The Public Service Commission approved an interim 21 percent rate increase this summer after the utility requested a 58 percent rate increase. The 21 percent increase, about an \$8 a month per customer hike, will be placed in an escrow account until investigators determine if the rate increase is justified. If not, the money will be refunded to ratepayers.

tohara@keysnews.com

**K W Resort Utilities Corporation
 Adjustment to AWT Proforma Increase**

Assuming 400 GPD Company Calculations						
Cost Category	Monthly AWT Level Treatment ⁽¹⁾	Annual Proforma Amount	Remove Excessive 30% Mark-up	Test Year Amount ⁽²⁾	Company Pro Forma ⁽³⁾	
Electricity	\$ 15,650	\$ 187,800	\$ -	\$ 141,282	\$ 46,518	
Chemicals	13,592	163,104	37,625	50,763	112,341	
Sludge Hauling	<u>3,183</u>	<u>38,196</u>	<u>8,811</u>	<u>19,472</u>	<u>18,724</u>	
	\$ 32,425	\$ 389,100	\$ 46,436	\$ 211,517	\$ 177,583	
Assumed	400 gpd ⁽²⁾			492		
				177		
Actual Test Year	287 gpd ⁽¹⁾			68		
<u>Amount per GPD</u>		<u>@ 400 GPD</u>	<u>@ 400 GPD</u>	<u>@287 GPD</u>		
Electricity		\$ 470	\$ -	\$ 492		
Chemicals		\$ 408	\$ 94	\$ 177		
Sludge Hauling		\$ 95	\$ 22	\$ 68		

Citizens' Recommendations @ 287 GPD						
<u>Amount per GPD</u>	<u>Annual Proforma Amount @ 287 GPD</u>	<u>Test Year Amount</u>	<u>Citizens Pro Forma</u>	<u>Excessive Mark-Up Disallowance</u>	<u>Total Adjustmet</u>	
Electricity	\$ 134,851	\$ 141,282	\$ (6,431)			
Chemicals	\$ 117,118	\$ 50,763	\$ 66,355	\$ (27,017)		
Sludge Hauling	\$ <u>27,427</u>	\$ <u>19,472</u>	\$ <u>7,955</u>	\$ <u>(6,327)</u>		
	\$ 279,395	\$ 211,517	\$ 67,878	\$ (33,344)		
Adjustment to Proforma Expenses	\$ (109,705)		\$ (109,705)	\$ (33,344)	\$ (143,048)	

Source: Company MFRs, Schedule F-2; Weiler Memo from MFR Workpapers; Response to Staff Audit Requests 1 and 17.

Docket No. 070293-SU
Kimberly H. Dismukes
Exhibit No. KHD-1
Schedule 16

Key West Resort Utilities Corporation
Letter Addressing Discovery Matters

Source:
Response to Citizens' Interrogatory 20.

William Smith, Jr.

KEN PRUITT
President of the Senate



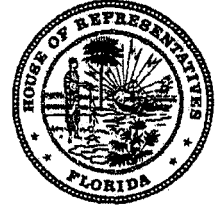
Charlie Beck
Interim Public Counsel

STATE OF FLORIDA
OFFICE OF PUBLIC COUNSEL

C/O THE FLORIDA LEGISLATURE
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ROOM 812
TALLAHASSEE, FLORIDA 32399-1400
850-488-9330

EMAIL: OPC_WEBSITE@LEG.STATE.FL.US
WWW.FLORIDAOPC.GOV

MARCO RUBIO
Speaker of the House of Representatives



November 13, 2007

John L. Wharton, Esquire
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

In Re: Docket No. 070293-SU; Application for increase in wastewater rates in Monroe County by KW Resort Utilities, Corp.

Dear John,

Per our prior discussions and the instructions of the Prehearing Officer communicated through Ralph Jaeger, I have attached to this letter, a list of discovery that I believe has not been adequately responded to. In the spirit of cooperation, I am providing this so that we can discuss this matter and hopefully resolve these outstanding discovery matters.

If you could get back with me before the close of business tomorrow, I would greatly appreciate it. To this end, I would like to address how we might resolve these outstanding issues and what accommodations can be made to OPC given that these responses are needed for the prefilings of our direct testimony. I look forward to hearing from you.

Sincerely,

Stephen C. Reilly
Associate Public Counsel

CC: Ralph Jaeger

Enclosures

Outstanding Discovery Matters

November 13, 2007

	5, 7, 9, 11, 20, 22, 26, 27, 29, 30, 32, 33, 34, 37, 38, 42, 44, 46, 47, 57, 58, and 61	The Company did not provide documents in response to this PODs. According to Orders PSC-07-0851-PCO-SU and PSC-07-0901-PCO-SU, the Company is to state if information cannot be provided because it does not exist. KWRU did not provide such information for these PODs. If the Company does not have supporting documentation, then it should so state.
	61	POD 61 asks for electronic documents. To the extent a document can be reproduced electronically, i.e. spreadsheets, it should be provided in that manner.

2nd ROGs

Non-Responsive	Number	Brief Summary
	76	The Company failed to provide an explanation of the relationship between Green Fairways and Johnson Constructors.
	77	Refers to an attachment but no attachment received; Also the Company did not provide the NARUC account number and name the amounts were charged to.
	78(b)	Audit Request 14 does not answer this POD.
	78(c)	Monthly interest was not provided as requested.
	78(f)	Refers to an attachment but no attachment received.
	78(g)	Refers to an attachment but no attachment received.
	78(h)	Amount of inspection fees not provided as requested.
	78(k)	The attachments do not address if any payment was withheld and the reason.
	79(b)	The Company failed to provide the amount expected to be paid at completion of AWT upgrades.
	79(c)	Need where the AWT money is deposited and the interested earned as requested.

2nd PODs

	63, 68, 73, and 75	The Company did not provide documents in response to this PODs. According to Orders PSC-07-0851-PCO-SU and PSC-07-0901-PCO-SU, the Company is to state if information cannot be provided because it does not exist. KWRU did not provide such information for these PODs. If the Company does not have supporting documentation, then it should so state.
	75	POD 75 asks for electronic documents. To the extent a document can be reproduced electronically, i.e. spreadsheets, it should be provided in that manner.

Other Matters

All Interrogatories		The Company has not produced the affidavits for Interrogatories nor has it identified the persons responsible for answering the Interrogatories as per instructions.
All PODs		The Commission's Procedural Order stated: "(6) Each page of every document produced pursuant to requests for production of documents shall be identified individually through the use of a Bates Stamp or other equivalent method of sequential identification. Parties should number their produced documents in an unbroken sequence through the final hearing." The Company failed to follow the Commission's procedural order on this matter as no documents were paginated.
CD Attachment	1, 2, 4 and 12	The Used and Useful Tab in Excel file "DEPR & CIAC AMORT.xls" contains reference errors.

**Outstanding Discovery Matters
November 13, 2007**

1st Set of Interrogatories		
No Answer Provided	7(k); 27 (a) and (b); 30 (b); and 42 (c), (d), and (f)	The Company has not provided any responses to these interrogatories.
Answers Not Provided With PODs	Number	Brief Explanation
	18(b), (d), (e), (f), (g), (h), (i), (k), and (l), 19, 26(b), 31(b), 33, 34(b), (e), and (f), 38, 48, 73.	In response to these interrogatories the Company indicated that documents further responsive to this Interrogatory are being produced in response to the Request for Production of Documents. No additional documents were provided in the PODs or identified in the PODs. The company needs to state that no such documents exist, provide the documents, or identify in the PODs that have been provided, which ones are responsive to these interrogatories.
Non-Responsive	Number	Brief Explanation
	1	Did not provide legal expenses for the four years preceding the test year.
	2(d)	Information was not provided. The question did not ask about NARUC guidelines. If there was a gain or loss on the sale of the asset it should be stated.
	7(f)	The Interrogatories that the answer refers to do not to answer this question. The specific information requested should be provided.
	7(i)	Services and products for all companies listed in 7(h) were not provided.
	15	The ROGs that the answer refers to does not answer this question.
	18(j)	The Company's answer does not indicate if costs included in this category are non-recurring.
	20	The company provided the advertisements in the response to the PODs, however, it did not provide the information requested in the interrogatory.
	28(c)	Compensation information was not included.
	30(a)	This response referred to the response to Interrogatory 28, which was not answered by the Company.
	31(a)	This response referred to the response to Interrogatory 7i, which is not responsive.
	41(b)	No Key West Golf Course bills were provided.
	41(c) and (d)	It appears that the Company may have responded to these two subparts in subpart (e), however, we need confirmation that the answer holds for (c) and (d).
	42(b)	There was no explanation of why the generator was replaced.
	49(a)	No explanation is given. If the Company does not know why the cost increased, then it should so state.
	51	This response refers to the Staff audit documents, but does not say which documents are responsive.
	57	Updated cost estimates were not provided.
	58(b)	Response did not address cost savings.
	75	Documents available in electronic format, like excel spreadsheets should have been provided electronically but were not.
1st PODs		