

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

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KW RESORT UTILITIES CORP.'S
POST-HEARING STATEMENT OF ISSUES AND POSITIONS

Pursuant to Rule 25-22.056(3)(a), F.A.C., KW RESORT UTILITIES CORP. (hereinafter "KWRU", "Applicant" or "Utility"), files this Post-Hearing Statement of Issues and Positions. KWRU is simultaneously filing a Post-Hearing Brief, in which the positions taken on the issues in this filing are developed and supported more fully.

Statement of Issues and Positions

ISSUE 1: Is the quality of service provided by K W Resort Utilities Corp. satisfactory?

KWRU: * Yes. The quality of service provided by KWRU is satisfactory.*

ISSUE 2: Should KWRU's test year rate base be adjusted for Keys Environmental hook-up fees?

KWRU: * No, the amount charged to the Utility for the supervision of the hook-up is not part of the contract services provided by Keys Environmental and is therefore an appropriate additional rate base item and cost to capitalize on the Utility's books.*

ISSUE 3: Should KWRU's test year rate base be adjusted for KWRU's contribution to the decommissioning of jail facilities?

KWRU: *No, KWRU's contract with the County required KWRU to run a line and decommission the jail's sewer facilities. KWRU was paid a capacity charge as part of this agreement, and the agreement to "decommission" was a requirement in order to secure that interconnect of, and new service to, the jail facilities.*

ISSUE 4: Should KWRU's test year rate base be adjusted for Green Fairways Jail Project management fee?

KWRU: *No, Green Fairways charges a 10% contract administration fee on all major projects, and Green Fairways did oversee this project and charged the normal fee for those services. As such, this cost is at market value and should be capitalized.*

ISSUE 5: Should KWRU's test year rate base be adjusted for Green Fairways SSI Project management fee?

KWRU: *No, the contract with the County said Green Fairways would charge a 10% management fee, and Green Fairways did. This was part of the negotiated contract with the County, and not part of the normal duties that Green Fairways performed. This cost is at market value and should be capitalized.*

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ISSUE 6: Should KWRU's test year rate base be adjusted for Green Fairways SSI Project management fee?

KWRU: *No, the contract with the County said Green Fairways would charge a 10% management fee, and Green Fairways did. This was part of the negotiated contract with the County, and was not part of the normal duties that Green Fairways performed. This cost is at market value and should be capitalized.*

ISSUE 7: Should KWRU's test year rate base be adjusted for Mr. Johnson's moving expenses?

KWRU: *No, these fees were for legitimate legal work in securing contracts for the benefit of the Utility and its customers.*

ISSUE 8: Should KWRU's test year rate base be adjusted for Mr. Johnson's moving expenses?

KWRU: *No, these expenses were a part of the compensation that Mr. Johnson agreed to in order to operate KWRU through KEI.*

ISSUE 9: Should KWRU's test year rate base be adjusted for Mr. London's consulting fees?

KWRU: *No, Mr. London's services were as a consultant to assist in management of KWRU and later in securing funding and service arrangements with the County on behalf of KWRU.*

ISSUE 10: Should KWRU's test year rate base be adjusted for White and Case Legal Charges Related to Monroe County Audit Report?

KWRU: *No, the Utility was required to respond to the County audit, which was a part of the costs of the capitalized project. These legal services were necessary in order to prepare that response.*

ISSUE 11: Should KWRU's test year rate base be adjusted for the Key West Citizen PR Advertisement?

KWRU: *No, this is an action undertaken at the County's request to assist customers in understanding of the required system expansion and required interconnection of customers, thereby benefitting all of KWRU's customers through a larger customer base.*

ISSUE 12: Should adjustments be made to the utility's pro forma plant additions?

KWRU: *No, these are normal, legitimate fees for work done to oversee construction projects.*

ISSUE 13: What are the used and useful percentages of the utility's wastewater treatment plant and collection and reuse systems?

KWRU: *KWRU's wastewater treatment plant, entire collection system, and reuse systems, are all 100% used and useful in providing service to the customers of the Utility.*

- ISSUE 14:** What is the appropriate test year balance of accumulated depreciation?
- KWRU:** *The test year accumulated depreciation balance, as outlined in the Utility's original filing, adjusted for the effect of the stipulations on that balance.*
- ISSUE 15:** What are the appropriate test year balances of contributions-in-aid of construction (CIAC) and accumulated amortization of CIAC?
- KWRU:** *The test year CIAC and accumulated amortization of CIAC, as outlined in the Utility's original filing, as adjusted for the effect of the stipulations on that balance.*
- ISSUE 16:** What is the appropriate working capital allowance?
- KWRU:** *The working capital allowance, as outlined in the Utility's original filing, adjusted for the effect of the stipulations on that balance.*
- ISSUE 17:** What is the appropriate rate base?
- KWRU:** *The appropriate rate base is that outlined in the Utility's original application, adjusted for the effect of the stipulations on that balance.*
- ISSUE 18:** What is the appropriate return on common equity?
- KWRU:** *The appropriate return on common equity is that yielded from use of the Commission's leverage formula in effect at the time the Final Order is issued in this proceeding.*
- ISSUE 19:** What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure?
- KWRU:** *The appropriate weighted average cost of capital is that contained in the Utility's filing, adjusted for any effects of the stipulations outlined herein and the updated cost of common equity, based upon the leverage formula in existence at the time of the Commission's Final Order in this proceeding.*
- ISSUE 20:** Should any adjustments be made to test year revenues?
- KWRU:** *Test year revenues should be those outlined in KWRU's original application, adjusted for the effects (if any) of the stipulations outlined herein. KWRU benefitted by allowing contract personnel to utilize the trailer while charging them rent. Costs not recovered are appropriate expenses and the use of the trailer benefitted customers. MCDC revenue is merchandise/jobbing income. Related expenses should be removed to below-the-line merchandising/jobbing expenses equal to the revenue amount.*
- ISSUE 21:** Should any adjustments be made to sludge removal expenses?
- KWRU:** *No, the OPC proposed three year average is not reasonable, based on increased customers, higher treatment requirements, and increased costs. The actual costs for the test year and for future years must be recognized.*

- ISSUE 22:** Should any adjustments be made to chemicals expense?
- KWRU:** *No, the OPC proposed three year average is not reasonable, based on increased customers, higher treatment requirements, and increased costs. The actual costs for the test year and for future years must be recognized.*
- ISSUE 23:** Should KWRU's test year expenses be adjusted for the reduction of infiltration and inflow related to the re-sleeving of its lines?
- KWRU:** *No, I&I was not excessive before this work. Any effect of the re-sleeving on infiltration and inflow is minor/immaterial. There is no material reduction in costs and the proposed AWT expenses should be judged based upon what constitutes fair market value for those services, in related party transactions.*
- ISSUE 24:** Should KWRU's test year expenses be adjusted to remove any markup in pro forma expenses?
- KWRU:** *No, the fair market value of these services is the appropriate test based upon case law. These charges were reasonable for the services provided.*
- ISSUE 25:** Should any adjustments be made to insurance – general liability?
- KWRU:** *No. This is a periodic insurance payment, not a finance charge, and is reasonable and must be recognized.*
- ISSUE 26:** Should any adjustments be made to advertising expenses?
- KWRU:** *These costs were undertaken per the County's request and benefitted all customers by providing for a substantial increase in customer base. Therefore, these costs should be recognized as beneficial to the Utility.*
- ISSUE 27:** Should KWRU's test year expenses be adjusted for Mr. Smith's Management Fees Charged by Green Fairways?
- KWRU:** *No, Mr. Smith receives no salary from the Utility and this is what is charged for his services to the Utility, which charges are reasonable, based upon comparable systems.*
- ISSUE 28:** Should test year expenses be adjusted for certain transactions between Keys Environmental (KEI) and KWRU?
- KWRU:** *No, KEI charges must be based upon market values. KEI lab testing is not part of the agreed to contractual services. Hookup fees paid to KEI by KWRU should be capitalized. When contractors broke sewer lines, they were repaired by KEI. The cost of broken lines is a responsibility of KWRU and not collectible from contractors.*

ISSUE 29: Should any other adjustments be made to contractual services - other expenses?

KWRU: *Golf cart costs include maintenance and insurance and the specialized golf cart used by KWRU and the allocation method is appropriate. Employee bonuses are not bonuses in fact, but are instead reimbursement to persons for extra work performed on behalf of KWRU, and are reasonable for the services performed.*

ISSUE 30: Should any adjustments be made to miscellaneous expenses?

KWRU: *No, these travel expenses were a reasonable part of the compensation package provided by the Utility for Mr. Smith. Sheriff's Office delivery notices were required by the County as part of the agreement to increase the customer base, and KWRU chose the least cost option for achieving this requirement.*

ISSUE 31: What is the appropriate amount of rate case expense?

KWRU: *The amount outlined in the Utility's Rebuttal Testimony, including both actual and estimated expenses, through the conclusion of this case.*

ISSUE 32: Should any adjustment be made to test year net depreciation expense?

KWRU: *The net depreciation expense outlined in the Utility's filing, adjusted for any effects of the stipulations contained herein should be recognized in rate setting.*

ISSUE 33: What is the test year wastewater operating income or loss before any revenue increase?

KWRU: *The net operating loss outlined in the Utility's original filing, adjusted for the effect of any stipulations agreed to herein.*

ISSUE 34: What is the appropriate revenue requirement?

KWRU: *The revenue requirement outlined in the Utility's filing, updated for the effect of the stipulations contained herein, and updated rate case expense as outlined in the Utility's Rebuttal Testimony.*

ISSUE 35: What is the appropriate rate structure for this utility?

KWRU: *The rate structure outlined in the Utility's original application.*

ISSUE 36: What are the appropriate monthly residential and general service rates?

KWRU: *The residential and general service rates as proposed in the Utility's original application, updated for the effect of any stipulations agreed to herein and the additional rate case expense outlined in the Utility's Rebuttal Testimony.*

ISSUE 37: What are the appropriate monthly bulk and reuse service rates?

KWRU: *The bulk and reuse service rates as proposed in the Utility's original application, updated for the effect of any stipulations agreed to herein and the additional rate case expense outlined in the Utility's Rebuttal Testimony.*

ISSUE 38: In determining whether a portion of the interim increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?

KWRU: *The amount of refund is subject to the resolution of other issues. However, the rule which requires that refunds be made with interest based on commercial paper rates when a utility has secured the potential refunds with an escrow account, and therefore cannot earn interest at that level, is confiscatory.*

ISSUE 39: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

KWRU: *Rates should be reduced by the amount of annual effect of rate case expense authorized as delineated in the Utility's Rebuttal Testimony.*

ISSUE 40: Should the utility be required to provide proof, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable NARUC USOA primary accounts associated with the Commission approved adjustments?

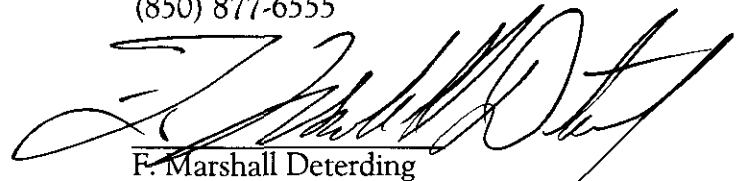
KWRU: *The Utility agrees to provide such proof, to the extent there is a finding that any such adjustments are warranted.*

ISSUE 41: Should this docket be closed?

KWRU: **Yes, after granting of the rates necessary in order to allow the Utility to recover its costs and generate a fair rate of return on its investment are granted and final.*

Respectfully submitted this
27th day of October, 2008, by:

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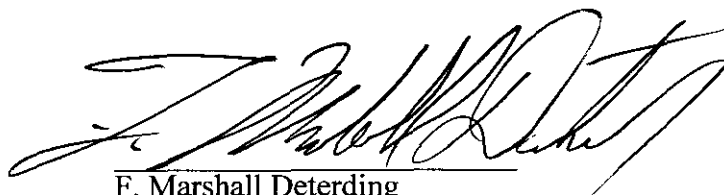
F. Marshall Deterding

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail (*or email) to the following this 27th day of October, 2008:

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