

ANDY GARDINER
President of the Senate



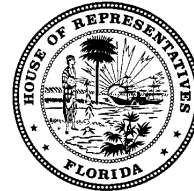
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STEVE CRISAFULLI
*Speaker of the House of
Representatives*



September 10, 2015

Mr. Andrew Maurey
Division of Accounting and Finance
Florida Public Service Commission
2340 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket 150071-SU - Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp. – OPC 2nd Letter

Dear Mr. Maurey,

Upon our review of the Minimum Filing Requirements (MFRs) in the K W Resort Utilities Corp. (KW Resort, KWRU, or Utility) rate case, the Office of Public Counsel (OPC) would like to address several concerns regarding the application.

1. Affiliate Transactions. In Staff's deficiency letter dated July 30, 2015, Item 1 states that Rule 25-30.110(2), Florida Administrative Code (FAC) requires that the MFRs shall be consistent and reconcilable with the utility's Annual Report. Item 2 in Staff's deficiency letter, states that Rule 25-30.436 (4)(h), FAC, regarding affiliate charges, allocations, and contracts has not been provided.

In its response to Staff's deficiency letter dated August 28, 2015, regarding Item 2, the Utility stated that it has no costs allocated or charged by any parent, affiliate, or related party (emphasis added). However, in its 2014 Annual Report on page E-10(a), the Utility lists 7 types of affiliate business transactions that provide annual charges to K W Resort totaling \$122,047. KWRU has submitted similar affiliate and related party charges in its Annual Reports since at least the last 10 years. OPC believes that the Company's response to the MFR deficiencies regarding affiliate transactions is incorrect and additionally does not match the information filed in its 2014 Annual Report which is the same reporting year as the test year in this case. The Utility may not receive any allocated costs but it certainly reported that it has charges purchased from affiliates or related parties in its Annual Report. The Utility should be required to provide the correct answers to the questions to Rule 25-30.436 (4)(h), FAC, before the MFRs are accepted as complete.

YEAR OF REPORT
31-Dec-14

NAME:KW Resort Utilities Corp

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, and asset, or service involved.

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)	CONTRACTOR AGREEMENT EFFECTIVE DATES (c)	ANNUAL CHARGES (P)urchased (S)old (d)	AMOUNT (e)
Green Fairways	Management & Construction Services	711/99 -Open	p	\$60,000
Smith Oropeza P.L.	Legal Representation PSC Rate Case	1/13/2014	p	\$24,670
Smith Oropeza P.L.	General Legal Representation	1/13/2014	p	\$2,533
Smith Oropeza P.L.	Legal Expansion -Last Stand	1/13/2014	p	\$20,014
Keys Environmental, Inc.	Sub contract work for KWRU	1/22/2014	s	\$11,730
Key West GolfClub	Staff Holiday Party	1/13/2014	p	\$600
Key WestGolfClub	Impact Fees Power to Actuated Reuse Valve	reimbursal	p	\$2,500

September 10, 2015

Page 3

2. Appropriate Test Year. OPC is also concerned that the use of an historic test year ended December 31, 2014 in this docket will not be representative of the Utility's operations when the new rates are placed into effect. Rule 25-30.430(1), FAC, regarding test year approval, states:

Prior to the filing of an application for a general rate increase, a utility shall submit to the Commission a written request for approval of a test year, supported by a statement of reasons and justifications showing that the requested test year is representative of utility operations. The Commission Chairman will then approve or disapprove the request within 30 days from the receipt of the request. In disapproving the requested test year, the Chairman may suggest another test year. Within 30 days of the Chairman's approval or disapproval of a test year, upon request of any interested person the full Commission may review the Chairman's test year decision.

In its test year approval letter dated February 26, 2014, the Utility stated:

The Company requests an historic test year ending December 31, 2014. The requested test year is representative of a normal full year of operation. However, there will be pro forma adjustments to expenses to reflect expenses in the years when rates will be in effect as a result of changes in operations as a consequence of having to upgrade the WWTP to AWT standards, such as increases in staffing, chemicals, sludge hauling, power and testing/sampling.

In its MFRs, the Utility has requested a pro forma increase to plant and expenses associated with the treatment plant addition, which it has requested to be 100% used and useful. The Utility's description of the wastewater treatment plant addition on Schedule F-6 shows that the permitted capacity of the plant will go from 499,000 gallons per day (gpd) to 849,000 gpd. The Company's filing reflects that treated wastewater is projected to increase above the test year level by 393,157 gpd to 849,000 or 79% for the next 7 years beyond the test year. On page 62 of the MFRs (Schedule F-6, page 3 of 4), the company states:

The extraordinary growth, the planning requirements of DEP, the need to meet environmental requirements, the economics of smaller options, the commitments by commercial enterprises and the expressed concern of such entities at the DEP hearings that the expansion is insufficient are all factors that clearly exist. As it did in the last case (see Order No. PSC-09-0057-FOF-SU, 1/27/2009, page 20) the Commission should recognize these factors and find that the existing wastewater treatment plant, the expansion and the addition of the injection wells are all 100% used and useful.

While the Company fully admits that extraordinary growth is projected to be incurred soon after the plant is operational, it did not make any adjustments to revenues, contributions in aid of

construction, gallons of wastewater treated for billing, or equivalent residential connections (ERCs) related to this extraordinary growth to its MFRs. None of this information was presented to the staff and the Chairman of the Commission in the test year approval letter which stated that the pro forma plant and expenses were only to upgrade to advanced wastewater treatment (AWT). OPC also has concerns that the pro forma expenses related to the increased operations for the new plant are based on treatment at full capacity.

Had staff known that such extraordinary growth was projected, it most likely would have recommended a projected test year be used instead of an historical with pro forma adjustments. To decide a case with such extraordinary growth without including the expected customers and consumption incurred shortly after the plant is placed in service will certainly not produce rates that are representative of future operations. If the Commission were to set rates on an historical test year with 100% used and useful and no projections of customer growth, the Utility would very likely be in an over earnings position once the new level of customers are added to the system.

Further, the Chairman's test year approval letter dated March 13, 2015, states on page 2 that "Approval of the test year for filing purposes does not mean that an issue regarding the appropriateness of the test period could not be raised at any time during the proceeding." OPC believes that the Company's historic test year is not representative of the operations of the Company at the time the new rates will go into effect and believes that a fully projected test year should be used.

3. AWT Upgrade in Prior Rate Case. In its last rate case, the Utility requested and received approval of plant and operating expense pro forma adjustments to upgrade the existing plant to AWT standards¹. In fact, numerous references were made regarding the upgrade to AWT throughout the Order. OPC believes that KWRU should explain the differences in the upgrade to AWT in the last rate compared to the upgrade in this current rate case and state when the prior upgrade was placed into service.

4. Projected Revenues, Customers and Billing Determinants. On MFR Schedule F-6 page 3 of 4, the Utility states the following:

Based on analysis of historic flows and building projects either known to have contacted KWRU or have obtained Development Agreements with Monroe County, the capacity increase determined to be necessary by the project engineers (350,000 GPO increase or from 499,000 GPO to 849,000 GPO along with a concomitant increase in disposal capacity) is expected to be more than 70% used in the year in which it is placed in service.

OPC believes that the Utility should provide a list of all known building projects that the Utility knows about, and commercial enterprises, organizations, and/or companies that have contacted KWRU, or have obtained Development Agreements with Monroe County that the Utility

¹ See Order No. PSC-09-0057-FOF-SU, Page 22, issued in Docket No. 070293-SU.

September 10, 2015

Page 5

expects to connect to the system in the year of or subsequent to the year the upgraded plant is placed into service. For each customer, the Utility should also provide the meter size of the customer, the projected gallons of wastewater that each customer is expected to use, the CIAC charges that each customer is expected to pay, and the annual revenue impact of each customer based on the historical test year rates and the Utility's requested final rates by meter size.

5. Projected Revenues, Customers and Billing Determinants. The Utility should also provide the workpapers that reflect the calculations of the 472,208 and 33,338 gpd projected amounts of suppressed flows for 2015 and 2016, respectively that it mentions on MFR Schedule F-8.

The suppressed flow demand represents general service developers for which the demand has been calculated by KWRU and its engineers on the basis of AADF gpd from the EDU (ERC) equivalents of their planned facilities and on County Development agreements. Rather than convert these flow demand back to ERCs, the utility has projected the AADF flow directly, indicating that portion associated with the suppressed demand coming on line when the plant expansion is complete.

In its calculations the Utility should provide the gpd calculations by customer and meter size (ERC) and the date that those connections or increases in consumption are projected to occur.

6. Litigation Legal Fees. Reviewing the annual reports of the Utility, it is not evident how and where the Utility accounted for the legal fees associated with the legal challenge for *Last Stand and George Halloran v. Florida Department of Environmental Protection and Key West Resort Utilities Corporation*. The Utility should explain how and where these charges were recorded and in what years, by amount per year, the charges were booked. The Utility should also explained why it has asked the ratepayers to pay for the legal fees when the Utility has requested that the legal fees be recovered by the Petitioner in the litigation.

7. Working Capital. The Utility should explain why its cash balance increased from \$431,973 in 2013 to \$818,918 in \$2014, which equates to an average test year balance of \$625,446 included in working capital. The Utility should also explain why a cash balance that is 55% of its test year revenues is reasonable for setting rates. OPC notes that the Utility's average cash balance in the last rate case for the test year ended December 31, 2006 was \$210,420.

8. Working Capital The Utility has requested a balance of \$467,625 for Other Miscellaneous Deferred Debits – Proforma in Working Capital. The Utility should provide all calculation, basis, workpapers, and support documentation to show to what this relates and why a pro forma adjustment of this level is appropriate for setting rates.

9. Working Capital The Utility's requested balance of working capital in the current docket is \$1,367,232. The Commission approved Working Capital balance in the last rate case was \$464,578. As a comparison in this case, even including the requested pro forma expenses, the

September 10, 2015

Page 6

formula method (one-eighth of Operation and Maintenance Expense of \$2,039,714) equates to \$254,964. Both the prior working capital allowance and the formula method of calculating working capital are substantially lower than the Utility's requested balance. The Utility should provide support showing why the requested working capital allowance is reasonable, which is almost 3 times higher than the last allowed balance and over 5 times higher than the level that would be allowed using the formula basis.

10. Affiliate Debt. The Utility should provide an explanation of why it is reasonable for the ratepayers to pay an interest rate of 6.00% on \$852,903 in Advances from Associated Companies, when its interest rate with BB&T, a non-affiliate, is reflected at 4.00%.

11. Pro Forma Equity. On Schedule D-2 the Utility made a pro forma adjustment to increase Common Equity by \$3,500,000. OPC believes that the Utility should provide all calculations, basis workpapers, and support documentation for the pro forma equity adjustment. The Utility should also explained why debt was not issued related to the construction of the expansion of the wastewater treatment plant.

If you should have any questions, please feel free to call or e-mail me.

Sincerely,

s/ Tricia Merchant

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