

DIVISION OF ECONOMICS
GREG SHAFER
DIRECTOR
(850) 413-6410

STATE OF FLORIDA



COMMISSIONERS:
JULIE I. BROWN, CHAIRMAN
LISA POLAK EDGAR
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS

Public Service Commission

February 18, 2016

RECEIVED-FPSC
2016 FEB 22 AM 9:33
COMMISSION
CLERK
VIA CERTIFIED MAIL

Mr. Martin S. Friedman
Friedman & Friedman
Attorneys at Law
766 North Sun Drive, Suite 4030
Lake Mary, Florida 32746

Re: Docket No. 150071-SU - Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

Dear Mr. Friedman:

According to K W Resort Utilities Corp.'s (K W Resort or Utility) MFRs and billing data, staff found that K W Resort's billing practice for several general service customers may be inconsistent with its approved tariff. Sections 367.081(1) and 367.091(3), Florida Statutes (F.S.), provide that regulated utilities may only charge those rates and charges approved by the Commission and the approved rates and charges must be contained in the utility's approved tariff on file with the Commission. Section 367.091(4), F.S., states that a utility may only collect the approved rates and charges for the particular class or service involved. Section 367.161(1), F.S., provides that if any utility, by any authorized officer, agent, or employee, knowingly refuses to comply with, or willfully violates, any provision of Chapter 367, F.S., or any lawful rule or order of the Commission, such utility shall incur a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the Commission, or the Commission may, for any such violation, amend, suspend, or revoke any certificate of authorization issued by it. Each day of such refusal or violation continues constitutes a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the Commission as a statutory lien under Chapter 85, F.S.

Staff's review of K W Resort's billing practice for several general service customers indicates that the Utility may be violating the above named statutory provisions as follows:

- Safe Harbor Marina is currently being billed a negotiated rate, rather than the approved bulk flat rate. By Order No. PSC-02-1165-PAA-SU, in Docket No. 020520-SU, issued August 26, 2002, the Commission found that the Utility was charging the marina a flat rate for the unmetered bar and restaurant that had not been approved by the Commission and that the Utility was billing discriminatory rates to Safe Harbor. As a result, the Commission authorized a new bulk flat rate.

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

An Affirmative Action / Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: contact@psc.state.fl.us

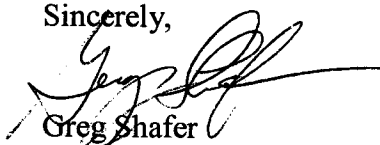
K W Resort Utilities Corp.
February 18, 2016

- Sunset Marina is currently being billed base facility charges (BFCs) based on an 8" and a 2" meter, the Utility's approved gallonage charge based on water demand, the approved charge for two pools, as well as an additional 64 BFCs based on the number of units behind the meter. According to the Utility's tariff, Sunset Marina should have been billed BFCs based on an 8" and a 2" meter and the gallonage charge based on water demand. Because the pools and 64 units are behind the water meters, no additional charges should have been billed for those facilities.
- A general service customer with a 6" meter is being billed the BFC for a 5/8" x 3/4" meter for each of the 103 units, while another general service customer with a 5/8" x 3/4" meter is billed the BFC for a 5/8" x 3/4" meter for 49 units. These general service customers should have been billed a BFC for a 5/8" x 3/4" meter and the Utility's approved gallonage charge based on water demand, with no additional charge for the individual units behind the meters.
- Two marinas each with a 2" meter are currently being billed based on an approved bulk flat rate that includes BFCs for a 2" meter and six residential units, as well as a gallonage charge that was erroneously added to the bulk rate tariff as a result of an administrative approval of a 2011 price index.

By Order No. PSC-02-1711-TRF-SU, issued December 9, 2002, in Docket No. 021008-SU, regarding a request for a new class of service, the Commission noted staff's discovery that the Utility was charging an unauthorized charge during its review of the Utility's 2002 price index filing. The Commission did not order the Utility to show cause why it should not be fined for failure to apply for a new class of service because (1) the Utility was cooperative in providing the necessary information, (2) the Utility assured the Commission that the revenues were included in the Utility's annual reports and the appropriate Regulatory Assessment Fees were paid, and (3) the Commission found that the Utility thoroughly understood the requirements for applying for a new class of service and the need to not initiate new classes of service without notifying the Commission in a timely manner.

Please provide a response by March 21, 2016, describing when and under what circumstances each of the above mentioned violations occurred and the Utility's plan to correct the billing errors.

Sincerely,



Greg Shafer
Director

cc: K W Resort Utilities Corp.
Office of Commission Clerk