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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 150071-SU

APPLICATION FOR INCREASE IN
WASTEWATER RATES IN MONROE COUNTY
BY K W RESORT UTILITIES CORP.

_____ /

VOLUME 3

PROCEEDINGS: HEARING

COMMISSIONERS
PARTICIPATING: CHAIRMAN JULIE I. BROWN
COMMISSIONER ART GRAHAM
COMMISSIONER JIMMY PATRONIS

DATE: Monday, November 7, 2016

TIME: Commenced at 1:14 p.m.
Concluded at 5:37 p.m.

PLACE: Harvey Government Center
Board of County Commissioner
Meeting Room
1200 Truman Avenue
Key West, Florida 33040

REPORTED BY: DEBRA KRICK
Court Reporter

PREMIER REPORTING
114 W. 5TH AVENUE
TALLAHASSEE, FLORIDA
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1 APPEARANCES: (As heretofore noted.)

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1 P R O C E E D I N G S

2 (Transcript follows in sequence from Volume
3 2.)

4 CHAIRMAN BROWN: Mr. Sayler, did you say you
5 were done with this witness?

6 MR. SAYLER: Yes, ma'am.

7 CHAIRMAN BROWN: Okay. Thank you.

8 We are on to Monroe County.

9 MR. WRIGHT: Thank you, Madam Chairman.
10 Before I ask my very few cross-examination
11 questions of Ms. Swain on her direct examination, I
12 have a question about the exhibits. Over at this
13 end of the table, we have got two Exhibit 93s, and
14 I am confused.

15 CHAIRMAN BROWN: Okay.

16 MR. WRIGHT: I had Exhibit 93 as KWRU's
17 response to staff's 37 interrogatory number 69.

18 CHAIRMAN BROWN: Yes. That's correct.

19 MR. WRIGHT: Thank you. Okay. Then I have
20 for 94, the pro forma expenses response to staff's
21 interrogatory 16.

22 CHAIRMAN BROWN: That's correct. Ms. Swain.

23 MR. WRIGHT: Thank you. And I have got of a
24 document excerpts from general ledger January --

25 CHAIRMAN BROWN: We did not mark that.

1 MR. WRIGHT: Thank you. That resolves my
2 confusion. Thank you very much.

3 CHAIRMAN BROWN: Okay. And 93 is entered into
4 the record already.

5 MR. WRIGHT: That's what I had, too.

6 CHAIRMAN BROWN: Yes. Squared away?

7 MR. WRIGHT: Yes, ma'am. Thank you very much.

8 CHAIRMAN BROWN: You're welcome.

9 MR. WRIGHT: And as I -- true to my word, I
10 have very few questions for Ms. Swain on her direct
11 examination.

12 EXAMINATION

13 BY MR. WRIGHT:

14 Q Good afternoon.

15 A Good afternoon.

16 Q Are you aware that in -- this is a yes or no
17 question. Are you aware that in 2013, Monroe County
18 made a payment of \$500,000 to KWRU to settle certain
19 issues?

20 A Yes, I am aware, but not necessarily of the
21 exact date or exact amount.

22 Q Okay. My real question simply goes to this:
23 I will represent to you -- well, I will say it this way:
24 Do you know that part of that payment was earmarked as
25 payment for additional capacity reservation fees or the

1 equivalent for the county's facilities on North Stock
2 Island?

3 A That I am not aware. I am aware that some of
4 that was recorded to CIAC.

5 Q Thank you. That answers that question.

6 The only other question I have for you relates
7 to a follow-up of a question -- to a question posed by
8 Mr. Sayler. You were talking about a one-phase rate
9 increase coming out of this proceeding. Do you recall
10 that brief discussion?

11 A Yes.

12 Q My question is simply, would it be your
13 position that whatever rate increase comes out of this
14 proceeding should be implemented contemporaneously with
15 the in-service date of the new wastewater treatment
16 plant?

17 A No. No, I disagree.

18 Q Why? And when should such rate increase be
19 implemented, if not contemporaneously with the new
20 wastewater treatment plant?

21 A Well, by the time the utility's treatment
22 plant is complete, it will have spent millions and
23 millions and millions of dollars since the end of the
24 test year, all through and including this point whether
25 the plant is in service or not. So the rates should go

1 into effect as quickly as possible on a single phase to
2 recognize, first of all, that the PAA only went in, and
3 I -- some date in April, and yet the utility had spent
4 millions and millions of dollars on its plant expansion.
5 And that PAA did not allow the utility to recover very
6 much, first of all, with its investment, only \$300,000
7 of construction, and only a portion of the pro forma
8 expenses. So it would be inadequate. It needs to go
9 into effect as quickly as possible.

10 **Q If it goes into -- if the rate increase were**
11 **to be implemented before the plant is in service, then**
12 **isn't it true that the company would be recovering for**
13 **plant expenditures, new rate base, that is not used and**
14 **useful in providing service to its customers?**

15 A No, not with the historic test year plus pro
16 forma adjustments, no. As soon as the money is spent,
17 the utility is already behind in being able to earn on
18 it, so it needs to go in as quickly as possible.

19 **Q So your position is that, even though the**
20 **plant is not providing service to customers, the company**
21 **should be allowed to recover on that?**

22 A Yes, but in this case, the rates won't be
23 going into effect until after the plant is completed,
24 that's number one. So it's sort of a moot point.

25 The PAA that is in effect did not include any

1 recovery of the pro forma plant, only the small margin
2 of construction work-in-progress that was on the books
3 at the end of the test year, and then a few months into
4 the audit. So it didn't even include the millions of
5 dollars that have been spent since then, and yet that's
6 all they are -- that's all the utility is recovering.

7 It's a very interesting timing with all this,
8 through the protest, the rates actually won't go into
9 effect until the plant is completed.

10 **Q Well, that gets back to the first question**
11 **that I asked you in this line. How do you know that the**
12 **rates won't go into effect contemporaneously with the**
13 **new plant coming on-line?**

14 A Well, as I understand the schedule for this
15 case, and as I understand the schedule for the
16 construction, the rates won't be going into effect until
17 after the plant is completed.

18 **Q On what date do you understand the new rates**
19 **would be going into effect?**

20 A Sometime after March. I am not sure when the
21 final order is anticipated, and when the utility will be
22 able to put the rates into effect, but sometime after
23 that March date when the plant is completed.

24 **Q And so you complete that the plant will be**
25 **completed in March?**

1 A That's consistent with what I have been told,
2 yes.

3 Q Okay. I'm going to try my initial question
4 one more time. If it were possible to have the new
5 rates go into effect contemporaneously with the new
6 plant, would you agree that would be appropriate -- the
7 new plant being on-line?

8 A I don't want to be difficult, but I am trying
9 to understand your question, so I am going to answer the
10 question I think you are answering -- you are asking me.

11 If this -- if this rate case were not
12 protested I think that the rates should have gone into a
13 single phase recognizing the entire pro forma plant, and
14 that would have gone into effect this past April on the
15 entire pro forma plant.

16 Q So it's -- your position is that it should
17 have gone into effect seven months ago, even though the
18 plant was not in service?

19 A That's right. And it's because the money --
20 millions and millions of dollars had already been spent
21 by the utility towards the completion of that plant.

22 Q I do have one other question for you, and we
23 talked about this in your deposition.

24 In your direct testimony, at page three, you
25 made the statement, "due to the delay in implementing

1 final rates due to the protest, KWRU also had to replace
2 an air vacuum tank." I bet you remember that you and I
3 discussed that in your deposition.

4 A Yes, I do.

5 Q I noted that you did not change your
6 testimony. Surely, you don't assert that the it had to
7 replace the air vac tank because we protested the PAA
8 order, do you?

9 A No. And it was inartfully stated. I don't --
10 I didn't think it rose to the level of a correction, but
11 you are right, it was -- certainly, I did not intend to
12 say that the protest caused the need for that tank to be
13 replaced.

14 Q Thank you.

15 MR. WRIGHT: That's all I have. Thanks, Madam
16 Chairman.

17 CHAIRMAN BROWN: Okay. Thank you.

18 Ms. Aktabowski.

19 MS. AKTABOWSKI: No questions.

20 CHAIRMAN BROWN: Thank you.

21 Staff.

22 MS. MAPP: Yes, we have several questions, and
23 we have exhibits that we are going to hand out
24 first.

25 CHAIRMAN BROWN: Okay. And would you like

1 them marked?

2 MS. MAPP: Yes, please.

3 CHAIRMAN BROWN: Thank you. So we are at 95.

4 MS. MAPP: Yes. I would like to mark the
5 first one KWRU's response to staff's first POD, No.
6 14, as 95.

7 CHAIRMAN BROWN: Number 14 --

8 MS. MAPP: Yes.

9 CHAIRMAN BROWN: -- we will label that as 95.
10 (Whereupon, Exhibit No. 95 was marked for
11 identification.)

12 MS. MAPP: 96 I would like to staff's rogs No.
13 30.

14 CHAIRMAN BROWN: Okay. Go ahead and label
15 that 96.

16 (Whereupon, Exhibit No. 96 was marked for
17 identification.)

18 MS. MAPP: And then 97 would be the excerpt of
19 the Florida Administrative Code.

20 CHAIRMAN BROWN: Do you want that marked?

21 MS. MAPP: Yes, as 9 -- actually, we could
22 just --

23 CHAIRMAN BROWN: We don't need that.

24 MS. MAPP: Yeah, we won't be entering it in
25 this record so we don't need to mark it.

1 CHAIRMAN BROWN: Thank you. Okay.

2 MS. AKTABOWSKI: Could you say those again?

3 CHAIRMAN BROWN: Absolutely. 95 is KWRU's
4 first set of PODs No. 14. And then 96 is response
5 to staff's first set of rogs No. 30. And the rule,
6 we do not need to mark.

7 All right. Staff, you have the floor.

8 MS. MAPP: Okay.

9 EXAMINATION

10 BY MS. MAPP:

11 Q Good afternoon, Ms. Swain.

12 A Hello.

13 Q Would you agree that miscellaneous service
14 charges are designed to place the cost on the cost --

15 A Absolutely, yes.

16 Q Now, if you could turn to what's been marked
17 as Exhibit No. 95 for me.

18 A And could you tell me what the title is,
19 because I didn't write down the exhibit number?

20 Q KWRU's response to staff's first PODs No. 14.

21 A Okay. Thank you.

22 Q And if you could turn to the matrix on, I
23 believe, the third page -- or third page of the handout.

24 A Okay.

25 Q KWR-- I'm sorry -- KWRU has for requested

1 miscellaneous service charges for initial connections,
2 normal reconnection and premise visits to include labor
3 for recording, slash, processing, field supervision and
4 it's put 23-percent mark on the total labor for benefits
5 and insurance; is that correct? There is also more
6 detail on the backside of --

7 A Okay. And the -- yes. Okay.

8 Q And so my recitation was accurate?

9 A The -- yes, labor and benefits -- I am sorry,
10 I thought you said three percent. It's 23 percent.

11 Q Yes, 23 percent, yes.

12 Can you explain why the utility believes it is
13 appropriate to include benefits and insurance as part of
14 the cost justification for the labor and miscellaneous
15 service charges?

16 A Yes. The -- there is costs associated with
17 labor that aren't directly the salaries, and those are
18 the benefits and insurance that the utility pays as a
19 result of those employees. So what we have done is
20 calculated what the percentage of those costs are to
21 direct labor, and added that on as additional direct
22 cost of providing these services.

23 Q And can you explain why there is a cost for
24 postage included in your breakdown of miscellaneous
25 service charges?

1 A The utility included -- or provided the cost
2 of postage for any of those items that require direct
3 postage.

4 **Q Would you agree that transportation,**
5 **administrative and field labor costs, excluding**
6 **overhead, for benefits and insurance are sufficient**
7 **components in developing miscellaneous service charges?**

8 A Are you asking me should we, therefore, not
9 include the cost of the employees' group insurance, et
10 cetera?

11 **Q Yes.**

12 A No, I don't think that that's adequate. I
13 think the full employee costs should be included in the
14 miscellaneous charges, otherwise they are in the general
15 utility expenses that are included in the other utility
16 rates and paid by other customers.

17 **Q Is this standard Commission practice?**

18 A I don't know. I have always done it this way,
19 and I think this is the way that it should be done.

20 **Q Okay. Thank you.**

21 Can you --

22 MR. SAYLER: Madam Chairman, as it relates to
23 this interrogatory response, I believe Ms. Swain
24 provides testimony to support a \$15-an-hour,
25 something much lower in her direct testimony, and

1 it's now only through discovery that the utility is
2 asking for a much higher miscellaneous service
3 charges, so we would just note that we believe that
4 is improper supplementing of the record through
5 discovery. So that is our objection.

6 CHAIRMAN BROWN: So you are objecting -- are
7 you objecting to this exhibit, or objecting to the
8 answer that was just provided -- line of
9 questioning?

10 MR. SAYLER: I am philosophically -- the
11 utility puts on its direct case --

12 CHAIRMAN BROWN: That's something you should
13 argue in your post-hearing brief.

14 MR. SAYLER: Certainly, we can do that, but we
15 just need to raise the objection here now because
16 it's the proper time that we would object to that,
17 because it's not -- if the utility wanted this
18 higher rate, they should have put it in the direct
19 case, not through cross-examination -- excuse me,
20 not through interrogatory and discovery responses,
21 so that's my objection.

22 CHAIRMAN BROWN: Do you want to comment, Mr.
23 Friedman --

24 MR. FRIEDMAN: No.

25 CHAIRMAN BROWN: -- or leave it alone?

1 MR. FRIEDMAN: We will address it in our
2 brief. Thank you.

3 CHAIRMAN BROWN: All right. Continue, Ms.
4 Mapp.

5 BY MS. MAPP:

6 **Q Yes. Can you please keep of this**
7 **interrogatory response at the ready, but also, at the**
8 **same time, turning to DDS-1, page 51 of 70, attached to**
9 **your direct testimony?**

10 A Okay.

11 **Q Now, as Mr. Sayler alluded to, this document**
12 **has different miscellaneous service charges than is**
13 **represented in the interrogatory response that was**
14 **handed out. Can you please explain the differences**
15 **between the two numbers?**

16 A Yes, the minimum filing requirements were
17 filed with this schedule that's in my DDS-1, and it
18 wasn't until the discovery in the audit that we realized
19 that I had included the incorrect schedule of fees, and
20 had not included the support that we had developed, and
21 so it was provided in discovery and in the audit, and
22 then it was referenced in the PAA.

23 **Q So between DDS-1 and the response to**
24 **production of the documents No. 14, which schedule of**
25 **miscellaneous service charges is accurate?**

1 A The -- whatever number it is that just gave
2 me, the interrogatory -- the POD -- first staff's set of
3 PODs no. 14 is that the correct one.

4 **Q Yes.**

5 A There is a subsequent correct one in the rate
6 we were estimating -- we were using a rate of an
7 employee that's no longer there, and the rate has
8 changed since then for one of the employees.

9 **Q Did the customer -- I am sorry, did the**
10 **utility ever refile their request for the increased**
11 **charges?**

12 A No. No.

13 **Q But it's your testimony that the DDS-1, as it**
14 **stands now, is inaccurate?**

15 A That's correct.

16 **Q Thank you.**

17 And if you could turn with me, please, to the
18 exhibit, I believe it's the excerpt of the Florida
19 Administrative Rules.

20 CHAIRMAN BROWN: We have not marked that.

21 It's just with the stack, so it is not marked as an
22 exhibit, just in the package that staff
23 distributed. Do you have a copy of it, Ms. Swain?

24 THE WITNESS: Okay, I am there.

25 BY MS. MAPP:

1 **Q Thank you.**

2 Could you review what's on the second page,
3 Rule 25-30.460(1)(c)?

4 A Okay.

5 **Q Would you agree that this rule provides that**
6 **the violation reconnection charge is -- for wastewater**
7 **is based on actual costs for the reconnection rather**
8 **than an average cost for making those reconnections?**

9 A Yes, that's what it says.

10 **Q Thank you.**

11 Would you agree that only one trip is
12 necessary for an initial connection and premise visit?

13 A I don't know. I would say typically, yes, but
14 I am sure there is an occasion when there may be another
15 trip, but I don't know.

16 **Q Would you agree that a normal reconnection**
17 **charge should be designed to cover the cost of the**
18 **normal reconnection and a subsequent disconnection when**
19 **the customer terminates service?**

20 A Yes.

21 **Q Thank you.**

22 And if you could turn to our exhibit marked
23 96. That's staff's -- KWRU's response to staff's first
24 set of rogs No. 30.

25 A Okay, I am there.

1 Q Okay. Here, KWRU indicated that the salary
2 for the person that processes late payment notices is
3 \$24.76. However, in the production of documents, No.
4 14, which is Exhibit No. 95, the salary for that person
5 that processes late payment notices is \$33,75, including
6 overhead. Please indicate the salary of the person that
7 processes late payment notices, excluding overhead costs
8 for benefits and insurance.

9 A I can't tell from the -- from the production
10 of documents document what the hourly rate was. It
11 doesn't state it. But the -- the person that does that
12 work is, as indicated on the first set of
13 interrogatories No. 30, 24.76.

14 Q Okay. And would you agree that the late
15 payment charge is designed to defray the cost of
16 processing late payment charges?

17 A Yes.

18 Q Would you agree that using labor, excluding
19 the overhead for benefits, insurance, postage and
20 supplies, is an appropriate way to develop a late
21 payment charge?

22 A Well, I think all the costs ought to be
23 included.

24 Q Thank you.

25 MS. MAPP: I have no further questions.

1 CHAIRMAN BROWN: Thank you, Ms. Mapp.
2 Commissioners?

3 I have -- I have a question for you,
4 Ms. Swain, regarding Exhibit 95 that Ms. Mapp was
5 just going over with you, the miscellaneous service
6 charges.

7 What the utility is proposing is a big jump
8 from what is currently in place, correct?

9 THE WITNESS: Right.

10 CHAIRMAN BROWN: And I am just trying to
11 understand the philosophical shift from in the last
12 rate case to this rates case, and why, I guess,
13 your testimony says -- you are saying that benefits
14 must be included in the labor charges. I just want
15 to get a clear understanding of why the significant
16 jump, and the departure in philosophy on the labor
17 portion.

18 THE WITNESS: The -- first of all, the shift
19 in the approach is simply that I still -- I feel
20 strongly, and the utility feels strongly, that they
21 ought to try to recover the actual cost of the work
22 that's being done from the customer that's causing
23 the work to be done -- that's the first thing --
24 rather than have it recovered through the
25 generates. So that's a -- that's a big shift.

1 Then we sat to analyze what the real cost is.
2 We tried to capture all of those costs, because
3 anything we neglect to include is then going to be
4 left on the shoulders of the generate rate payers.

5 CHAIRMAN BROWN: Okay. So let's go -- just
6 walk me through this. For the initial connection,
7 normal reconnection, normal disconnection, the cost
8 justification, labor, you have got \$69.34 for
9 normal hours cost. What is the hourly rate of the
10 person that would be performing that labor? And I
11 am trying to understand what the additional
12 benefits are that are associated with it.

13 THE WITNESS: Sure. On the very last page, it
14 has a list of the different employees and what
15 their hourly cost is.

16 CHAIRMAN BROWN: Oh, here it is.

17 THE WITNESS: So those are the hourly costs.
18 And then the labor, benefit -- the benefits and
19 insurance associated with those employees is
20 23 percent, and that's -- so that -- on that
21 particular one, that's a \$12.97 add-on to the
22 labor, to the direct labor to come up with a
23 full -- you know, a full cost of that -- of those
24 employees.

25 CHAIRMAN BROWN: What would the benefits be,

1 other than insurance? Would it be a 401(k)? What
2 goes into benefits?

3 THE WITNESS: I am not sure what all the
4 benefits are that the utility has, but certainly it
5 would be any type of group insurance. It would be
6 holidays. It would be vacation time. It would
7 be -- depending upon how the utility captures all
8 that cost, if it's not charged to something
9 presumably it's a benefit, and it would be included
10 this that.

11 CHAIRMAN BROWN: Okay. And then turning back
12 to the front side of that last page, with regard to
13 the transportation it varies from three miles to
14 six miles, it's kind of all over the place. Can
15 you explain how you get to three miles versus the
16 six miles for the after-hours cost, the normal
17 hours is three miles?

18 THE WITNESS: I think from the office, if I
19 recall what Mr. Johnson told me, from the office
20 was three miles, but if we have somebody -- if they
21 have somebody on call that has to go out after
22 hours, they are assuming an average six-mile trip
23 from a residence.

24 CHAIRMAN BROWN: Okay. Thank you.

25 Redirect?

1 MR. FRIEDMAN: A couple of questions.

2 FURTHER EXAMINATION

3 BY MR. FRIEDMAN:

4 Q Mr. Sayler asked you a question about the PAA
5 rates in effect, and whether -- and about a refund. Do
6 you remember the questions he asked you about that?

7 A Yes.

8 Q And in determining whether a refund would be
9 necessary for the PAA rates, would you include the
10 construction work in progress that the utility has
11 incurred or booked since the PAA order?

12 A Oh, absolutely, because the PAA rates were
13 based upon, as I said, a \$300,000 construction
14 work-in-progress, and have spent many millions of
15 dollars since then. So that whole portion ought to be
16 included if that is going to be -- based upon the timing
17 of the refund.

18 Q And Mr. Sayler asked you about the
19 amortization of the Last Stand fees, made a comment
20 that, or question maybe, that it remains in the revenue
21 requirement even after the five-year amortization,
22 correct?

23 A Correct.

24 Q And he insinuated that that may result in
25 over-earnings, do you remember that question?

1 A I think that was his insinuation.

2 **Q All right. Thank you.**

3 Isn't it true that the staff routinely
4 conducts audits when the annual reports are filed, and
5 frequently flags potential over-earnings?

6 A Yes, they do.

7 MR. SAYLER: Outside the scope of my direct
8 examination. Matter of fact, the question before
9 about over-earnings, I did not imply that as it
10 relates to the Last Stand amortization, so that's
11 my objection.

12 MR. FRIEDMAN: I think that's clear why we
13 asked the question, if it wasn't implying that they
14 wouldn't be over-earning at the end of the
15 amortization period. The question would have no
16 meaning otherwise. So it was in direct response to
17 that question.

18 CHAIRMAN BROWN: Okay. Objection overruled.
19 I will allow the question.

20 MR. FRIEDMAN: That's all we have. Thank you.

21 CHAIRMAN BROWN: Okay. Exhibits. We are --
22 this witness has 16 through 18. Would you like
23 those moved into the record?

24 MR. FRIEDMAN: I would. You are moving us
25 along.

1 CHAIRMAN BROWN: You better believe it. All
2 right --

3 MR. FRIEDMAN: Yes, I do.

4 CHAIRMAN BROWN: Any objection to 16 through
5 18? Seeing none, we will go ahead and do that.

6 (Whereupon, Exhibit Nos. 16-18 were received
7 into evidence.)

8 CHAIRMAN BROWN: And, Public Counsel, you have
9 got Exhibit 94. Would you like that moved?

10 MR. SAYLER: Yes, ma'am. We would like to
11 move 94 into the record.

12 CHAIRMAN BROWN: Any objection to moving
13 Exhibit 94 into the record?

14 MR. FRIEDMAN: Oh, it's already in -- no,
15 that's fine.

16 CHAIRMAN BROWN: Okay. Well, we are going to
17 go ahead and move it again.

18 (Whereupon, Exhibit No. 94 was received into
19 evidence.)

20 CHAIRMAN BROWN: All right. And, staff, you
21 had Exhibits 95 and 96.

22 MS. MAPP: Yes, we would like to enter those
23 as well.

24 MR. SAYLER: We would object to those going
25 into the record because of the fact that it's

1 sur -- supplementing their testimony. It's not
2 based upon their MFRs. I know she characterized it
3 as an error, but there were ways that they could
4 have corrected the testimony, and things of that
5 nature, so that's our objection.

6 CHAIRMAN BROWN: Okay. Your objection is
7 noted, but we will go ahead and enter those into
8 the record.

9 (Whereupon, Exhibit Nos. 95 & 96 were received
10 into evidence.)

11 CHAIRMAN BROWN: All right. She -- where did
12 she go?

13 THE WITNESS: I am sorry.

14 CHAIRMAN BROWN: You don't have to come back.

15 THE WITNESS: I assumed I was excused. I am
16 sorry.

17 CHAIRMAN BROWN: I am just messing with you.
18 Your witness will be excused.

19 (Witness excused.)

20 MR. FRIEDMAN: And that concludes the
21 utility's --

22 CHAIRMAN BROWN: Okay. Thank you. That does
23 conclude the utility's direct case, and we would be
24 moving on to Public Counsel at this time.

25 Public Counsel, are you ready, Mr. Sayler, to

1 proceeds with the witness -- the first witness?

2 MR. SAYLER: I would prefer just a short
3 two-minute break.

4 CHAIRMAN BROWN: Sure.

5 MR. SAYLER: And just to transition to for
6 that.

7 CHAIRMAN BROWN: Okay. We will give you give,
8 3:55 we will reconvene.

9 MR. SAYLER: Certainly. Thank you.

10 (Brief recess.)

11 CHAIRMAN BROWN: So this is the order we will
12 begin with the cross -- Monroe County begins cross,
13 followed by Harbor Shores Condo, followed by the
14 utility, and then staff. So that's the order
15 for --

16 MR. FRIEDMAN: I am sorry.

17 CHAIRMAN BROWN: It will go Monroe County,
18 then Harbor Shores Condo, then the utility, and
19 then staff, and then redirect.

20 MR. FRIEDMAN: How can Monroe County have
21 any --

22 CHAIRMAN BROWN: Them shouldn't, but that's
23 the order in the --

24 MR. FRIEDMAN: Is no friendly testimony -- no
25 friendly --

1 CHAIRMAN BROWN: That is correct. There is no
2 friendly cross allowed, but they are going first
3 for -- assuming they will go swiftly.

4 So we will begin with Mr. Andrew Woodcock, is
5 that correct? Have you been sworn in?

6 THE WITNESS: Yes, I have.

7 CHAIRMAN BROWN: Thank you.

8 All right, Mr. Sayler, you are up. Staff, are
9 you ready to proceed? Okay.

10 Whereupon,

11 ANDREW WOODCOCK

12 was called as a witness, having been previously duly
13 sworn to speak the truth, the whole truth, and nothing
14 but the truth, was examined and testified as follows:

15 EXAMINATION

16 BY MR. SAYLER:

17 **Q All right. Mr. Woodcock, would you please**
18 **state your name and business address for the record?**

19 A Andrew T. Woodcock. I work at Tetra Tech, at
20 201 East Pine Street, Suite 1000, Orlando, Florida.

21 **Q And you prepared and caused to be filed 15**
22 **pages of direct testimony in this proceeding on**
23 **September 14th, is that correct?**

24 A I have, yes.

25 **Q And do you have any corrections or errata to**

1 **your direct testimony?**

2 A I have a few minor corrections.

3 **Q All right. Would you please go through those?**
4 **Just let us know the page number and line number.**

5 A Okay. The first one is on page five, line 16,
6 where the number is 850,000, it should read 849,000.

7 Continuing on to page six, line 11, the same change,
8 850,000 to 849,000. And on page eight, line 10, also
9 the same change, 850,000 to 849,000.

10 On page 14, line 22, the line begins, yes,
11 without have the vacuum tank, it should be having and
12 not have.

13 And my final correction is on page one of one
14 of ATW-2, the second line up from the bottom, instead of
15 850,000, it should read 849,000.

16 **Q And with those changes, do you have any**
17 **further changes railroad revisions to your testimony?**

18 A I do not.

19 **Q And with those changes, if I asked you the**
20 **same questions contained in your direct testimony, would**
21 **your answers be the same?**

22 A Yes.

23 MR. SAYLER: All right. Madam Chair, I would
24 ask that the testimony of Mr. Woodcock be inserted
25 into the record as though read.

1 CHAIRMAN BROWN: We will go ahead and insert
2 into the record as though read, Mr. Woodcock's
3 direct prefiled testimony.

4 MR. SAYLER: All right.

5 (Prefiled testimony inserted into the record
6 as though read.)

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1 mergers and acquisitions, and cost of service rate studies. I have also served as
2 utility rate regulatory staff for St. Johns, Charlotte and Collier Counties in
3 engineering matters. Exhibit ATW-1, Resume of Andrew T. Woodcock, provides
4 additional details of my work experience.

5
6 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN UTILITY RATE CASE**
7 **PROCEEDINGS?**

8 A. Yes. In 2012, I filed testimony on behalf of Charlotte County regarding a rate
9 increase in wastewater rates filed by Utilities, Inc. of Sandalhaven. In 2002, I filed
10 testimony on behalf of the St. Johns County Regulatory Authority at a special
11 hearing in an overearnings case against Intercoastal Utilities. I have also filed
12 testimony before the Kentucky Public Service Commission in 2007 on behalf of the
13 Henry County Water District No. 2 (Case No. 2006-00191) regarding system
14 development charges.

15 I have filed testimony in a number of proceedings before the Florida Public Service
16 Commission, on behalf of the Office of Public Counsel (OPC). In 2007, I filed
17 testimony in the Aqua Utilities Florida Rate Case (Docket No. 060368-WS). I also
18 filed testimony regarding the Used and Useful Rule for Water Treatment Systems
19 (Docket No. 070183-WS), the Aqua Utilities Florida Rate Case (Docket No. 080121-
20 WS), and the Water Management Services, Inc. rate case (Docket 100104-WU). I
21 have also filed testimony on behalf of OPC in the previous KW Resort Rate Case
22 (Docket No. 070293-SU).

1 **Q. ON WHOSE BEHALF ARE YOU FILING TESTIMONY IN THIS**
2 **PROCEEDING?**

3 A. I am testifying on behalf of the Florida Office of Public Counsel.
4

5 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS**
6 **PROCEEDING?**

7 A. My testimony will address the used and usefulness of the K W Resort (KW or
8 Company) system as well as the costs and engineering aspects of the proposed pro
9 forma adjustments to rate base.
10

11 **Q. WHAT INFORMATION DID YOU REVIEW WHEN FORMING YOUR**
12 **OPINIONS AND RECOMMENDATIONS FOR KW?**

13 A. I reviewed the Minimum Filing Requirements (MFRs); the Direct Testimony filed by
14 Frank Seidman, Edward Castle and Chris Johnson; KW's filings in Docket No.
15 150071-SU; and KW's responses to discovery and staff's data requests. In addition I
16 reviewed the relevant Commission rules and Statutes applicable to KW's request,
17 and some Commission Orders. Finally, I reviewed information from the Florida
18 Department of Environmental Protection and data on vacuum tank projects in the
19 Florida Keys.
20

21 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS IN THIS CASE.**

22 A. In my professional opinion:

23 1) KW's collection system's used and useful percentage is 100%;

- 1 2) KW's wastewater treatment plant's used and useful percentage prior to
2 construction of the 350,000 gpd capacity expansion is 100%;
- 3 3) KW's wastewater treatment plant's used and useful percentage after
4 construction of the 350,000 gpd capacity expansion is 75%;
- 5 4) The proposed pro forma plant capacity expansion estimated cost of
6 approximately \$4.3 million is higher than what I would expect for most
7 places in Florida but given the location on the Keys the cost appears to be not
8 unreasonable;
- 9 5) The proposed pro forma additions to rate base for the air vacuum tank
10 replacement of \$610,177 are unreasonable and are overstated by \$134.890;
- 11 6) The basis for calculating the pro forma cost for chemicals and sludge should
12 be made at a WWTP flow of 507,370 gpd.
- 13

14 **II. USED AND USEFUL**

15 **Q. WHAT IS YOUR OPINION OF THE USED AND USEFUL PERCENTAGE**
16 **FOR THE COLLECTION SYSTEM?**

17 A. I agree with KW's assertion that the wastewater collection system remain at 100%
18 used and useful, as determined in Order No. PSC-09-0057-FOF-SU. As I testified in
19 the previous KW rate case, the portion of the collection system served by gravity
20 piping is fully built out and therefore can be considered 100% used and useful. My
21 review of this area using system maps and other resources indicates that this
22 continues to be the case.

1 Similarly, my testimony in the previous KW rate case indicated that the portions of
2 the collection system serviced by vacuum technology were funded by Monroe
3 County, and is considered fully contributed. As a result, it was my opinion that the
4 vacuum system should be excluded from the used and useful (U&U) analysis,
5 provided the cost to fund the system is deducted from rate base. My opinion in this
6 matter remains unchanged.

7
8 **Q. WOULD YOU DESCRIBE THE WASTEWATER TREATMENT PLANT**
9 **CAPACITY EXPANSION, AND WHY THE COMPANY BELIEVES IT IS**
10 **NEEDED?**

11 A. The existing WWTP is operating near its 499,000 gallons per day (gpd) capacity and
12 the Company has received requests for service that when connected will exceed this
13 capacity. The expansion consists of adding an additional treatment tank and
14 ancillary processes and facilities that will add an additional 350,000 gpd of treatment
15 capacity to meet future growth needs. This expansion will increase the total plant
16 capacity to ~~850,000~~ **849,000 (dk)** gpd.

17
18 **Q. ARE YOU AWARE OF ANY DEVELOPMENT PROJECTS THAT ARE**
19 **DRIVING THE NEED FOR THIS WWTP CAPACITY EXPANSION?**

20 A. Yes. KW has indicated in its MFRs, testimony and responses to discovery that there
21 are a number of development projects that have obtained “dry line permits” meaning
22 they can construct wastewater collection and transmission facilities; however, they

1 cannot connect to the KW wastewater system until the capacity expansion is
2 constructed and placed into service.

3

4 **Q. WHAT IS YOUR OPINION OF THE USED AND USEFUL OF THE**
5 **WASTEWATER TREATMENT PLANT PRIOR TO THE 350,000 GPD**
6 **EXPANSION?**

7 A. I am of the opinion that the WWTP at its current capacity is 100% used and useful.

8

9 **Q. WHAT IS YOUR OPINION OF THE USED AND USEFUL ANALYSIS OF**
10 **THE WASTEWATER TREATMENT PLANT CAPACITY EXPANSION TO**
11 **849,000 (dk)**
12 **850,000 GPD PRESENTED BY THE UTILITY IN ITS MFRS?**

13 A. I agree with KW's calculation of allowable inflow and infiltration (I&I) in the
14 system, and I agree that there is no I&I impact on the U&U calculation. I also agree
15 with the calculations on Schedule F-10 of the MFRs that support an average five
16 year historical ERC growth rate of 7.06%, and the regression analysis which
17 supports an annual growth rate of 5.86%. However, I disagree with KW's assertion
18 of a 100% U&U percentage for the WWTP.

19 **Q. WHAT IS YOUR OPINION OF THE U&U ANALYSIS IN PAA ORDER NO.**
20 **PSC-16-0123-PAA-SU?**

21 A. Similar to KW's analysis, I agree with the I&I analysis and the basic calculations
22 utilized. However, in the Commission's PAA Order there seems to be some
23 confusion regarding the growth allowance that is a part of the U&U calculation.

1 Rule 25-30.431, Florida Administrative Code (F.A.C.), provides for two methods of
2 calculating the growth allowance for U&U. One method is based on average ERC
3 growth as described by KW in schedules F-9 and F-10 of the MFRs, and the second
4 method is based on a linear regression using the average Equivalent Residential
5 Connections (ERCs) for five years of historical data. There is also a statutory
6 provision that the annual growth in ERCs should not exceed 5% per year for five
7 years.

8 In the text of the PAA Order regarding the wastewater treatment plant U&U, the
9 Commission discusses both methods interchangeably but ultimately relies upon the
10 linear regression method for calculating the growth allowance. Overall, I do not
11 agree with the 72% U&U found by the Commission in the Order.

12
13 **Q. WHAT IS YOUR APPROACH TO THE U&U OF THE KW WASTEWATER**
14 **TREATMENT PLANT?**

15 **A.** My approach is first to evaluate the U&U of the WWTP post expansion based on a
16 pro forma test year of 2016, when the expansion was initially expected to be
17 constructed and placed into service. Secondly, I limit the growth for the system to
18 5% as provided for in Rule 25-30.431(2)(a) F.A.C., for determining the growth
19 allowance for KW. My U&U approach is consistent with the U&U methodology
20 used by the Commission in the 2001 Burkim Enterprises PAA Order¹. That case
21 involved a utility experiencing rapid growth. In order to avoid the potential for
22 overearnings resulting from using a historical test year, the Commission found that a

¹ Order, No. PSC-01-2511-PAA-WS, Issued December 24, 2001, in Docket No. 010396-WS In Re. Burkim Enterprises Inc.

1 pro forma test year was appropriate¹. Further, notwithstanding the potential for rapid
2 growth, the Commission did not exceed the 5 years and 5% per year growth rate
3 when determining U&U, stating: “Section 367.081(2)(a)2, Florida Statutes, caps the
4 annual growth rate for the calculation of used and useful at 5% per year for a five
5 year period.”²

6 My opinion of the U&U for the WWTP is 75% as detailed in Exhibit ATW-2,
7 WWTP Used and Useful Calculation.

8

9 **Q. EXPLAIN THE IMPACT OF USING A 2016 TEST YEAR FOR YOUR U&U**
10 **ANALYSIS OF THE EXPANDED WWTP CAPACITY OF ~~850,000~~ 849,000 (dk) GPD.**

11 A. A 2016 pro forma test year was used to provide a consistent methodology with the
12 basis of the Phase 2 rates utilized in OPC witness Merchant’s testimony. In addition,
13 the expansion project was supposed to be completed and placed into service by
14 December 31, 2016; however, according to KW, it will now be placed into service in
15 the first quarter of 2017. Because the MFRs and testimony are based on a 2014 test
16 year some adjustments are necessary to adequately reflect the wastewater flow that
17 would be expected for a 2016 test year.

18 One way of doing this would be to simply look at the, now historical, 2015 and 2016
19 flows to the WWTP. However, I find that this method (1) overlooks the fact that due
20 to limitations in the WWTP capacity there has been essentially no growth in the
21 system and (2) ignores the “mindset” someone in 2014 would have had regarding
22 making adjustments for a pro forma test year.

¹ Burkim Enterprises at 11-12.

² Burkim Enterprises at 15.

1 My approach for the adjustment is to assume that growth through 2016 would occur
2 in a manner similar to the historical patterns at the time as shown in Schedules F-9
3 and F-10 of the MFRs. Since this adjustment is for a U&U analysis I limit that
4 growth to the 5% maximum of Rule 25-30.431, FAC. The result is a pro forma 2016
5 test year WWTP flow of 507,370 gpd (461,323 gpd + 46,047 gpd) and a total of
6 4,443 ERCs (4,039 + 202 + 202) as shown on Exhibit ATW-2.

7 I am of the opinion that not only does this adjustment provide for a reasonable pro
8 forma test year of 2016 but it also provides reasonable consideration for the
9 suppressed growth that has occurred as a result of the WWTP capacity limitation.

10

11 **Q. WHY DID YOU USE THE NOT TO EXCEED VALUE OF 5% PER YEAR**
12 **FOR THE GROWTH ALLOWANCE OVER THE AVERAGE ERC**
13 **GROWTH OR LINEAR REGRESSION METHODS?**

14 A. It is my opinion that the adjustments I have made in my analysis to accommodate a
15 2016 test year mitigate the unique conditions associated with the KW WWTP at this
16 time. Therefore, projecting a growth rate above the 5% not to exceed provision of
17 Rule 25-30.431, F.A.C., is not warranted.

18

19 **Q. AFTER MAKING THE ADJUSTMENTS FOR THE 2016 TEST YEAR, HOW**
20 **DID YOU CALCULATE YOUR 75% U&U AMOUNT?**

21 A. I applied the statutory criteria in Section 367.081(2)(a)2. F.S., that allows for up to a
22 5% growth allowance per year for 5 years for the period 2017 to 2021. This
23 produced an additional 126,630 gpd and 1,111 ERCs for 2017 to 2021 and results in

1 a total of 634,001 gpd (461,323 + 46,047 + 126,630) of wastewater flow for the
2 period from 2015 to 2021. These flows are divided by the 849,000 gpd capacity of
3 the expanded WWTP resulting in a 75% U&U percentage. My calculations are
4 shown on Exhibit ATW-2.

5
6 **Q. CAN YOU SUMMARIZE WHY YOUR 75% U&U CALCULATION IS**
7 **GREATER THAN THE PAA ORDER'S 72%?**

8 A. My U&U calculation is slightly higher than the PAA Order's 72% because my
9 calculation includes estimated growth for 2015 and 2016 for the updated test year, as
10 well as projected growth for the five year period from 2017 to 2021, and is capped at
11 5% per year.

12
13 **III. PRO FORMA ADJUSTMENTS TO RATE BASE**

14 **Q. WHAT IS YOUR OPINION OF THE COST ESTIMATE FOR THE 350,000**
15 **GPD WWTP EXPANSION?**

16 A. In the PAA Order KW was allowed \$3,574,468 in rate base for Phase II rates for the
17 expansion of the WWTP. Around the time the PAA order was issued, KW entered
18 into a contract with Wharton Smith for construction of the expansion for \$4.3
19 million. As part of KW's filing associated with this protest of the PAA Order, the
20 Company's request was increased to include the amount of \$4.3 million. The
21 proposed 350,000 gpd pro forma plant capacity expansion cost of approximately
22 \$4.3 million is higher than I would expect for most places in Florida; however, given
23 the location in the Florida Keys and the crowded conditions at the WWTP site the

1 cost appears to be not unreasonable. In addition it appears that KW was prudent in
2 receiving three bids for the project prior to its award. However, since the expansion
3 will be placed into service after this rate case is concluded, the Commission should
4 revisit the actual expansion costs and adjustments to rate base once the project is
5 completed.

6
7 **Q. WHAT ISSUES DO YOU HAVE WITH THE ADDITIONAL PRO FORMA**
8 **ADJUSTMENTS TO RATE BASE THAT WERE NOT INCLUDED IN KW'S**
9 **ORIGINAL PETITION FOR RATE INCREASE?**

10 A. KW requested an adjustment to rate base for the cost of a vacuum tank replacement
11 project. The estimated project cost is \$610,177.04, based on Edward Castle's
12 testimony and his Exhibit ERC-3 page 2 of 2. This tank replacement project was not
13 part of KW's original rate request and was added by KW after the PAA Order was
14 protested. It is my opinion that the estimated cost for the replacement of the vacuum
15 tank is overstated by \$134,890. My analysis is presented in Exhibit ATW-3
16 Adjustments To Vacuum Tank Replacement Estimate.

17
18 **Q. PLEASE GO THROUGH THE DETAILS THAT LED TO YOUR OPINION**
19 **THAT THE VACUUM TANK REPLACEMENT COSTS ARE OVERSTATED**
20 **BY APPROXIMATELY \$135,000.**

21 A. After reviewing Mr. Castle's testimony and his Exhibit ERC-3, I reviewed the
22 "Recommendation of Award for Vacuum Station E Tank Rehabilitation" provided
23 by Weiler Engineering to the Key Largo Wastewater Treatment District (Key

1 Largo). I obtained this document through an internet search of the Meeting Minutes
2 of Key Largo. This is a recommendation by Edward Castle with Weiler Engineering
3 in May 2016 for a bid award for the rehabilitation of Key Largo's vacuum tank, and
4 is attached as Exhibit ATW-4. This is the same Edward Castle who is testifying in
5 the docket on behalf of KW. I am comparing the costs of the Key Largo vacuum
6 tank because there are many parallels between the two projects. In addition, it
7 appears that some of the large cost items in the Key Largo project form the basis for
8 some of the costs in the KW vacuum tank replacement project. The total bid for the
9 Key Largo Wastewater Treatment District's tank rehabilitation project is \$218,750
10 which was negotiated down to \$207,750.

11 In my Exhibit ATW-3, Adjustment to Vacuum Tank Replacement Estimate, I
12 included all the line items from Mr. Castle's Exhibit ERC-3, page 2 of 2, filed in this
13 docket. I do not make any adjustments to lines 1 through 4, 7 or 9 of Mr. Castle's
14 estimate. My first adjustment to Mr. Castle's estimate shown on my exhibit is to line
15 item 5, identified as "Set-up, take-down, operate temp. tank." Similar to the vacuum
16 tank at KW, the large portion of the Key Largo project involves the set up and take
17 down of a temporary vacuum tank which is needed while the contractor is working
18 to rehabilitate the existing tank. For KW, the temporary tank is needed while the
19 contractor is installing a new vacuum tank. The rehabilitation of Key Largo
20 Wastewater Treatment District's tanks includes the cost of paint removal and
21 repainting the tanks. This is identified as 14.5% of the costs on page 25 of 53 of
22 Exhibit ATW-4. Those painting costs were not removed for KW's "set-up, take-
23 down, operate temp. tank" estimate. In my opinion the KW amount should be

1 reduced to \$173,281. Additionally it is reasonable to assume that the Key Largo
2 Wastewater Treatment District's bid included all applicable sales tax that is
3 associated with performance of the work, since the contractor performing the work is
4 subject to sales tax, so there is no need to add sales tax as indicated in Mr. Castle's
5 testimony. In my opinion, the sales tax in the amount of \$12,375 should also be
6 removed.

7

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

9 A. My next adjustment removes the sales tax associated with the services described in
10 line items 6 and 8, "Remove existing/Install new tank" and "Backfill and
11 compaction". These items represent labor and activities on-site that are not subject
12 to sales tax. These two adjustments reduce the amount by \$3,975 and \$615,
13 respectively.

14

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

16 A. The next adjustment removes mobilization and demobilization costs which are
17 shown in line item 10. Given the size of this project and the fact that there is an
18 existing contractor on-site constructing the WWTP expansion who is also
19 performing the Key Largo vacuum tank rehabilitation project, it would be prudent
20 for KW to perform the vacuum tank replacement as a change order to the WWTP
21 expansion contract. Doing so would eliminate the need for a new contractor to
22 mobilize and demobilize on-site, saving \$18,039. In fact, referring to page 1 of
23 Exhibit ATW-4 this very practice occurred in Key Largo with the same engineer and

1 contractor used by KW. If KW uses a change order to complete the vacuum tank
2 replacement, then this mobilization and demobilization cost should be removed.

3

4 **Q. AND THE NEXT ADJUSTMENT?**

5 A. The next adjustment removes, KWRU Staff Assistance from line 11. These costs are
6 already included in the salaries and wages of the utility staff, reducing the tank
7 replacement estimate by \$9,278.45.

8

9 **Q. THE NEXT ADJUSTMENT?**

10 A. My final adjustment decreases the 15% contingency added to the total cost of the
11 project. It is typical engineering practice to include a contingency amount in cost
12 estimates to compensate for unforeseen changes in the construction market and
13 material prices. Depending upon the level of design detail, contingency factors vary.
14 A 15% contingency on a cost estimate is representative of planning or perhaps
15 preliminary design effort. In this instance KW's engineer has developed bid
16 documents that represent a high level of design detail. As a result it is standard
17 practice to assign a 5% contingency to this level of design, and I have adjusted the
18 contingency in the estimate accordingly.

19

20 **Q. DO YOU HAVE ANY FURTHER COMMENTS ON THE VACUUM TANK**
21 **REPLACEMENT?**

having (dk)

22 A. Yes. Without ~~have~~ the vacuum tank bids or contract to review for reasonableness, I
23 believe that \$475,286 is a more reasonable amount than KW's engineering estimate

1 attached to Mr. Castle's testimony. By the time this matter goes to hearing in early
2 November, the vacuum tank project may be largely completed. Therefore, the
3 Commission should be able to obtain the vacuum tank replacement contract as well
4 as the actual costs incurred to review instead of relying upon KW's engineering
5 estimate.

6 In addition, the vacuum tank is a part of KW's wastewater collection system and not
7 part of the wastewater treatment plant. As such, the pro forma adjustment should be
8 placed into account 386 Other Plant – Collection System for purposes of rate base
9 calculation.

10

11 **IV. ADJUSTMENTS TO OPERATING COSTS**

12 **Q. WHAT ADJUSTMENTS DO YOU HAVE TO THE WWTP OPERATING**
13 **COSTS?**

14 A. In the MRFs the operating costs for chemicals and sludge are based upon a 2016
15 wastewater flow of 550,000 gpd. Based on my adjustments to the wastewater flows
16 to achieve a pro forma test year of 2016 I am of the opinion that these costs should
17 be estimated at a wastewater flow of 507,370 gpd as shown in Exhibit ATW-2.

18

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes.

1 BY MR. SAYLER:

2 Q And, Mr. Woodcock, you also had Exhibits ATW-1
3 through ATW-4 attached to your testimony, is that
4 correct?

5 A Correct.

6 Q And those are hearing exhibits on the staff's
7 comprehensive exhibit list 19 through 22, is that
8 correct?

9 A Subject to check, yes.

10 MR. SAYLER: And now it's time for staff's
11 questions.

12 CHAIRMAN BROWN: Thank you.

13 Ms. Mapp.

14 MS. MAPP: Yes, thank you.

15 EXAMINATION

16 BY MS. MAPP:

17 Q Mr. Woodcock, good evening.

18 A Good evening.

19 Q Could you please look in the large white
20 binder in front of you and pull out the comprehensive
21 exhibit list? Yes. And turn to page nine.

22 A I am there.

23 Q No. 70, you are indicated as having produced
24 number two and OPC's response to staff's first set of
25 interrogatories one through three, is that correct?

1 A That is correct.

2 **Q And did you produce it, or was it produced**
3 **under your direction or control?**

4 A I produced it myself.

5 **Q And is it a true and accurate to the best of**
6 **your knowledge or belief?**

7 A Yes, it is.

8 MS. MAPP: Thank you.

9 CHAIRMAN BROWN: Thank you.

10 Mr. Sayler.

11 MR. SAYLER: Madam Chair, we would tender the
12 witness for cross, excuse me --

13 CHAIRMAN BROWN: A little summary?

14 MR. SAYLER: Yes.

15 BY MR. SAYLER:

16 **Q Did you prepare a summary of five minutes or**
17 **less?**

18 A Yes, I did.

19 **Q All right. Would you please present that?**

20 A Yes.

21 Good evening, my name is Andrew Woodcock. I
22 am a Florida Registered Professional Engineer in the
23 state of Florida, with 26 years experience in the water
24 and wastewater industry. My experience includes the
25 design and permitting, capacity evaluations, condition

1 assessments, planning of water and wastewater utilities,
2 also including rates in financial feasibility.

3 I have testified in numerous rate cases, both
4 before the Public Service Commission and other
5 non-jurisdictional counties in Florida. And I was also
6 the engineering expert for OPC during the last KW rate
7 case in 2009.

8 For my testimony, I reviewed KWRU's used and
9 useful calculation for the wastewater collection system
10 used and useful for the current wastewater treatment
11 plant capacity, and used and useful for the expanded
12 plant capacity.

13 In my opinion, the used and useful for the KW
14 wastewater collection system is 100 percent based on my
15 analysis that the gravity collection system is fully
16 built out, and that the vacuum system is fully
17 contributed.

18 For the wastewater treatment plant, my opinion
19 is in two parts, first for the current plant capacity
20 and seconds for the expanded plant capacity.

21 For the Phase I revenues and rates, the
22 current wastewater treatment plant capacity I find to be
23 100 percent used and useful, which is consistent with
24 the Commission's decision in the last rate case. For
25 the Phase II revenues and final rates, it is my opinion

1 that the expanded plant should be 75 percent used and
2 useful.

3 After the expansion is completed in 2017, the
4 capacity of the wastewater treatment plant will increase
5 to 849,000 gallons a day. I calculated the appropriate
6 used and useful percentage to be 75 percent based on,
7 first, adjusting the 2014 wastewater information in the
8 MFRs, and updating it to a pro forma 2016 year, test
9 year. Then I applied a five-percent annual growth
10 allowance for a five-year period from 2017 to 2021, as
11 provided for in Rule 25-30.413, Florida Administrative
12 Code, and statute, to calculate a 75 percent used and
13 useful amount.

14 While my used and useful percentage is similar
15 to Mr. Seidman's', mine is calculated using a
16 five-percent growth allowance starting in 2017, and he
17 used a larger seven-percent growth allowance for his
18 2015. However, his conclusion that the plant expansion
19 should be 100 percent used and useful based on the 2009
20 rate case order is incorrect.

21 I also reviewed the reasonableness of the
22 plant expansion project and vacuum tank replacement
23 project. My opinion of the overall costs of the \$4.3
24 million expansion to the wastewater treatment plant is
25 that it is high, but it is not unreasonable, given the

1 region and the crowded conditions at the wastewater
2 treatment plant site. Anything above that amount could
3 be unreasonable.

4 The estimated cost of the vacuum tank
5 replacement, as described in KW's direct testimony, is
6 approximately \$610,000. I find that amount to be
7 \$135,000 too high based on my analysis and review of
8 similar projects in the region. A more reasonable
9 amount will be approximately \$470,000 or lower.

10 Finally, I reviewed the chemical and sludge
11 hauling cost calculations. I am of the opinion that,
12 based on my adjustments of wastewater flows to arrive at
13 the 2016 test year, that the chemical and sludge
14 operating costs should be based on a wastewater
15 treatment plant flow of 507,000 gallons per day, and not
16 550,000 gallons per day, as filed in the MFRs.

17 And that concludes the summary of my
18 testimony.

19 CHAIRMAN BROWN: Thank you.

20 MR. SAYLER: Now I would like to tender our
21 witness for cross-examination.

22 CHAIRMAN BROWN: Thank you. I want to welcome
23 you back, Mr. Woodcock, before the Florida Public
24 Service Commission. I guess the last time we saw
25 you was during the aqua case.

1 THE WITNESS: I believe the last time was 2010
2 with WMSI in St. George.

3 CHAIRMAN BROWN: Oh, yes.

4 THE WITNESS: But it's a pleasure always to be
5 before the Commission.

6 CHAIRMAN BROWN: Nice to see you.

7 All right. So we will be -- a reminder to the
8 intervenors that friendly cross will not be
9 permitted, and with that caveat, Monroe County.

10 MR. WRIGHT: No cross-examination, Madam
11 Chairman. Thank you.

12 CHAIRMAN BROWN: Thank you.

13 Harbor Shores.

14 MS. AKTABOWSKI: No cross-examination. Thank
15 you.

16 CHAIRMAN BROWN: All right. Back to the
17 utility.

18 EXAMINATION

19 BY MR. SMITH:

20 Q Yes, Mr. Woodcock, you kept your used and
21 useful at five-percent per annual growth, correct?

22 A That is correct.

23 Q Okay. In your calculation, you did not
24 consider environmental compliance in your used and
25 useful?

1 A My calculations did not consider 100 percent
2 compliance for use -- or environmental compliance costs
3 for used and useful, that is correct.

4 **Q You did not state in your testimony that any**
5 **amount above 4.3 million may be excessive, correct?**

6 A I believe I did.

7 **Q I will direct you to page 10 of your**
8 **testimony, where you discuss the plant cost. If you**
9 **could read that, and then identify where you state any**
10 **amount higher than 4.3 million may be excessive.**

11 A Give me a second. Do you have a line number I
12 could look at?

13 **Q It doesn't exist, so when you read it, please**
14 **let me know when you find it.**

15 A Okay.

16 **Q And that was page 11.**

17 A May I turn the page to look for where I feel
18 like it might be located?

19 **Q Certainly.**

20 A Okay. I will say that, given the location of
21 the Florida Keys -- I am at the bottom of page 10, line
22 22 -- and the crowded conditions at the wastewater
23 treatment plant, the cost appears to be not
24 unreasonable.

25 **Q Where is there a statement that anything**

1 **higher than 4.3 million may be excessive?**

2 A I guess I will give you that. But it would
3 certainly be, I think, cause for review, because I
4 already think that the 4.3 million is on the very high
5 side of things, so anything that would be above that
6 amount would certainly be -- require some more scrutiny.

7 **Q Thank you.**

8 No further questions.

9 CHAIRMAN BROWN: Thank you.

10 Staff.

11 MS. MAPP: Staff has no questions for this
12 witness.

13 CHAIRMAN BROWN: Okay. Redirect?

14 MR. SAYLER: No redirect. And may this
15 witness be excused?

16 CHAIRMAN BROWN: This witness may be excused.
17 However, what about exhibits?

18 MR. SAYLER: Well, I better move those in
19 first.

20 CHAIRMAN BROWN: Commissioners, I forgot about
21 us.

22 MR. FREIDMAN: You are trying move it along.

23 MR. SAYLER: Yes, ma'am. Office of Public
24 Counsel, prior to the excusal of this witness,
25 would like to move in Exhibits 19 through 22.

1 CHAIRMAN BROWN: Okay. Any objection? We
2 will go ahead and move 19 through 22.

3 (Whereupon, Exhibit Nos. 19-22 were received
4 into evidence.)

5 CHAIRMAN BROWN: Mr. Woodcock, safe travels.

6 THE WITNESS: Thank you.

7 CHAIRMAN BROWN: Thank you.

8 (Witness excused.)

9 MR. SAYLER: Thank you, Madam Chairman. And
10 now Public Counsel would like to call Ms. Patricia
11 Merchant to the stand.

12 CHAIRMAN BROWN: Who is that?

13 MR. SAYLER: I don't know who Patricia is. I
14 have been working with Trisha for about five or six
15 years.

16 CHAIRMAN BROWN: I have never heard of a
17 Patricia.

18 THE WITNESS: That's how I sign my checks.

19 MR. SAYLER: I am sure Patricia is also the
20 name her parents called her when she was in
21 trouble.

22 CHAIRMAN BROWN: I am sure. Ms. Merchant,
23 were you sworn in earlier?

24 THE WITNESS: Yes, I was.

25 CHAIRMAN BROWN: Great.

1 Whereupon,

2 PATRICIA MERCHANT

3 was called as a witness, having been previously duly
4 sworn to speak the truth, the whole truth, and nothing
5 but the truth, was examined and testified as follows:

6 THE WITNESS: Can I move this? Is that good?

7 CHAIRMAN BROWN: Yeah. You sound good.

8 EXAMINATION

9 BY MR. SAYLER:

10 Q All right. When you are ready, Ms. Merchant,
11 would you please state your name and business address
12 for the record?

13 A Yes. But let me get situated first, please.

14 MR. SAYLER: Also, while she is getting
15 situated, we would like to pass out an exhibit. It
16 contains an errata sheet to her testimony.

17 CHAIRMAN BROWN: Okay. Staff is coming to
18 assist you.

19 MR. SAYLER: This errata was previously filed
20 in the docket file, along with updates to two of
21 her exhibits. The updated exhibits are already
22 identified in the comprehensive exhibits list, and
23 this is the errata to her testimony. If it is your
24 pleasure --

25 CHAIRMAN BROWN: Yes.

1 MR. SAYLER: -- she can read through all of
2 this, or you can just have the court reporter
3 update it, but I need it identified for the record.

4 CHAIRMAN BROWN: I was just going to say, why
5 don't we first identify it as Exhibit 97.

6 (Whereupon, Exhibit No. 97 was marked for
7 identification.)

8 CHAIRMAN BROWN: And I think that will
9 suffice, unless you want her to read it through.
10 Whatever your preference is, really.

11 MR. SAYLER: Well, let me check with the
12 utility.

13 MR. SMITH: Whatever is fastest.

14 CHAIRMAN BROWN: Okay. So that would be -- we
15 could enter it into the record at the conclusion.

16 MR. SMITH: Yes.

17 CHAIRMAN BROWN: Okay. All right.

18 BY MR. SAYLER:

19 Q Ms. Merchant, are you ready?

20 A Yes, sir.

21 Q All right. Please state your name, business
22 address for the record, and by whom you are employed?

23 A My name is Patricia W. Merchant. My address
24 is 111 West Madison Street, Tallahassee, Florida, 32399,
25 and I am employed by the Office of Public Counsel.

1 Q Have you prepared and caused to be filed 88
2 pages of direct testimony in this proceeding?

3 A Yes.

4 Q And on October 27th, the Office of Public
5 Counsel filed an errata to your testimony, is that
6 correct?

7 A Yes.

8 Q And that has been identified in this
9 proceeding as Exhibit 97?

10 A Correct.

11 Q And with those changes identified in your
12 errata, if I asked you the same questions again in your
13 testimony, would your answers be the same?

14 A Yes, they would.

15 MR. SAYLER: I would ask that Ms. Merchant's
16 testimony with the errata be inserted into the
17 record as though read.

18 CHAIRMAN BROWN: Okay, without -- we will --
19 since the errata is identified as an exhibit, we
20 will do the errata portion at the conclusion of her
21 many testimony, but we will go ahead and insert Ms.
22 Merchant's prefiled direct testimony into the
23 record as though read.

24 MR. SAYLER: Thank you.

25 (Prefiled testimony inserted into the record

1 as though read.)

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Patricia W. Merchant Errata Sheet to her Direct Testimony

Page 10, line 5 remove the “comma” after test year

Page 38, line 15, remove the “s” on adjustments

Page 38, lines 18 to 22, remove “Audit Finding 1, the auditors reduced plant by \$30,090 for engineering costs related to the wastewater permit modification and reclassified the costs to add them to the deferred asset account for the wastewater permit fees. I agree with this adjustment to remove the costs from plant in Phase I, and I have included them in the balance of CWIP. Further, in”

Page 38, line 24, remove “also”

Page 47, line 12 replace “.075%” should be “0.75%”

Page 49, line 4 replace “0.075%” with “0.75%” and replace “3.584%” with “4.25%”

Page 49, line 16, replace “3.39%” with “3.99”

1 supervisor in the Division of Water and Wastewater which evolved into the
2 Division of Economic Regulation.

3

4 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC**
5 **SERVICE COMMISSION?**

6 A. Yes, I have testified numerous times before the PSC as an expert witness. I have
7 also testified before the Division of Administrative Hearings as an expert witness.

8

9 **Q. ARE YOU SPONSORING ANY EXHIBITS IN THIS CASE?**

10 A. Yes. I am sponsoring Exhibit PWM-1, a summary of my regulatory experience and
11 qualifications, which is attached to my testimony. I also sponsor Exhibits PWM-2
12 to PWM-9, which are described on my Table of Contents page. Exhibit PWM-2
13 contains the accounting spreadsheets for my recommended Phase I revenue
14 requirement calculations. Exhibit PWM-3 contains the accounting spreadsheets for
15 my recommended Phase II revenue requirement calculations.

16

17 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS DOCKET?**

18 A. I am presenting OPC's overall recommended Phase I and Phase II revenue
19 requirements in this case and I provide testimony regarding the appropriate rate
20 base, net operating income, cost of capital, revenue requirement and rates for KW
21 Resort Utilities Corporation (KW or Utility). I present evidence supporting the
22 need to update the historical test year so that it will be representative of the time
23 that the proposed plant expansion will be placed into service. I further testify about
24 adjustments to the Commission's Proposed Agency Action (PAA) Order No. PSC-

1 16-0123-PAA-SU¹ (PAA Order), including adjustments which I support and
2 adjustments with which I disagree.

3

4 **Q. ARE ANY ADDITIONAL WITNESSES APPEARING ON BEHALF OF**
5 **THE FLORIDA OFFICE OF PUBLIC COUNSEL IN THIS CASE?**

6 A. Yes. Andrew T. Woodcock, P.E., with the firm Tetra Tech, Inc., is presenting
7 testimony on the appropriate amount of the plant additions related to the expansion
8 of the wastewater treatment plant, the appropriate cost of the vacuum tank plant
9 replacement, and the appropriate amount of non-used and useful plant, as well as
10 some additional calculations which I incorporated into my recommended Phase I
11 and Phase II revenue requirements and rates.

12

13

SUMMARY

14 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF YOUR TESTIMONY IN**
15 **THIS CASE.**

16 A. I testify to numerous issues that show that the Utility's requested rate increase and
17 the Commission's approved PAA Order Phase I and Phase II rate increases are
18 excessive. Further, the historic test year requested by the Utility and relied upon
19 by the Commission in its PAA Order is unreasonable for setting rates for the
20 growth-related wastewater treatment plant. Similar to the PAA Order, I use two
21 separate test years to establish rates for KW. I have utilized an historic test year
22 ended December 31, 2014 for Phase I rates, and I have calculated rate base, cost of
23 capital, net operating income and rates for Phase I as shown in my Exhibit PWM-

¹ Order No. PSC-16-0123-PAA-SU, issued March 23, 2016, in Docket No. 150071-SU, In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

1 2. The appropriate revenue requirement for Phase I rates should be \$1,821,639,
2 which represents an increase of \$286,840, or 18.69%, to adjusted 2014 test year
3 revenues. For purposes of setting Phase II rates I have updated the 2014 test year
4 forward to a pro forma 2016 test year, as I describe in detail later in my testimony.
5 Based on my adjustments presented in Exhibit PWM-3, I testify that the appropriate
6 revenue requirement for Phase II rates should be \$2,269,893, representing an
7 increase of \$568,263, or 33.40%, to adjusted 2016 pro forma test year revenues.

8 Some of the other issues with which I present testimony include the following:

- 9 • Exclusion of known and measurable growth-related adjustments;
- 10 • Overstatement of pro forma operating expenses;
- 11 • Amortization of legal fees associated with the litigation of the treatment
12 plant expansion permit, which should be capitalized;
- 13 • Amortization of accounting fees for the Utility to correct its books after the
14 last rate case;
- 15 • Miscellaneous revenues and reuse gallons and appropriate rate;
- 16 • Refund of revenues collected under excessive PAA Rates;
- 17 • Discontinuance of collection of Contributions in Aid of Construction
18 (CIAC) Charges.

19
20 **APPROPRIATE TEST YEAR**

21 **Q. WHAT TEST YEAR DID KW REQUEST IN THIS DOCKET?**

22 **A.** KW requested an historical test year ended December 31, 2014. To that test year,
23 KW made substantial pro forma adjustments to rate base, operating expenses and
24 the capital structure to add post-test year increases to its requested revenue
25 requirement.

1 **Q. WHAT TYPES OF PRO FORMA ADJUSTMENTS DID THE UTILITY**
2 **MAKE TO ITS HISTORICAL TEST YEAR MINIMUM FILING**
3 **REQUIREMENTS (MFRs) IN THIS DOCKET?**

4 A. To begin, the Utility made a pro forma adjustment to increase plant by \$3,574,468
5 and accumulated depreciation by \$196,282 for its new wastewater treatment plant
6 expansion, which KW has now indicated will go into service no sooner than March
7 2017. Second, it made pro forma adjustments to accumulated depreciation and
8 depreciation expense to annualize its 2014 test year depreciation expense based on
9 other test year plant additions that went into service in 2014. Third, KW made
10 adjustments to its historical test year adding more than \$840,000 in pro forma
11 operation and maintenance (O&M) expense adjustments, including additional
12 salaries and benefits, chemicals, purchased power, accounting fees, sludge hauling
13 fees, materials and supplies, contractual services for engineering, testing and other,
14 insurance, and miscellaneous expenses. Fourth, the Utility made an adjustment to
15 amortize legal fees over 5 years for its defense of its Florida Department of
16 Environmental Protection (DEP) application for a construction/operating permit to
17 expand plant capacity in an administrative challenge by the Last Stand
18 organization. Finally, the Company made corresponding adjustments to taxes other
19 than income related to its other O&M expense pro forma adjustments.

20
21 **Q. IS THE 2014 HISTORICAL TEST YEAR WITH PRO FORMA**
22 **ADJUSTMENTS APPROPRIATE FOR SETTING RATES FOR KW IN**
23 **THIS PROCEEDING?**

24 A. Yes and no. First, I believe that a 2014 historical test year can be appropriate in
25 this docket, but only to the extent that the Commission implements a two-phased

1 rate increase. To explain, an historical test year with proper adjustments can be
2 appropriate to establish rates from the date KW implemented the Commission's
3 Phase I rates in the PAA Order until its new plant expansion is placed into service.
4 However, the Utility is expecting material growth in its treatment capacity,
5 customers, and consumption; therefore, an historical test year is not appropriate. In
6 this docket, based on its statements in its MFRs, KW is expecting substantial
7 growth in customers and consumption as soon as the new wastewater treatment
8 plant is placed in service; so much so that KW's projected 7% growth per year
9 exceeds the statutory 5% growth cap. While some of the pro forma adjustments
10 that the Utility has requested for salaries and advanced wastewater treatment
11 (AWT) may be appropriate for a 2014 historic test year, the majority of the
12 requested pro forma adjustments relate to the implementation of the wastewater
13 treatment expansion. The Utility's filing did not include any growth-related offsets
14 that would reduce the revenue requirement. Including growth-related plant and
15 expense pro forma adjustments without including the corresponding adjustments
16 for the impact of growth in customer contributions in aid of construction (CIAC),
17 additional customer bills and equivalent residential connections (ERCs) and
18 wastewater treatment consumption, will overstate the per-ERC cost. This is the
19 basic concept of the "matching principle." To include the growth-related increases
20 without the related reductions will immediately overstate the revenues and earnings
21 received by the Utility when the new rates are implemented, and will not result in
22 fair, just, and compensatory rates pursuant to Section 367.081, Florida Statutes.

23
24 **Q. ARE THERE ADDITIONAL CONCERNS YOU WOULD LIKE TO**
25 **ADDRESS TO SHOW THAT THE COMPANY'S HISTORICAL TEST**

1 **YEAR WILL NOT BE REPRESENTATIVE OF THE INVESTMENT**
2 **LEVELS WHEN THE NEW RATES WILL BE IMPLEMENTED?**

3 A. Yes. Adding in the positive pro forma adjustments that will increase rates for its
4 historical test year and ignoring the offsets that reduce rates clearly results in
5 “cherry-picking.” The definition of “cherry-picking” according to the Merriam-
6 Webster online dictionary² is to pick or accept the best people or things in a group,
7 or to select the best or most desirable. The addition of material amounts of growth
8 in CIAC, customers and consumption are clearly evident in the Utility’s filing, as
9 well as the actual changes that have occurred since the end of the 2014 test year.
10 These items represent material known and measurable transactions that are being
11 ignored. Further, if you increase the costs of plant and operating expenses without
12 reflecting the known and reasonably expected increases in sales and customer
13 growth, which KW clearly expects, you will inflate the average cost per customer
14 over the true cost and thus overstate the rates charged to customers. As I address
15 later in my testimony, the Utility has collected almost \$500,000 of CIAC since
16 December 31, 2014, which is a substantial amount. The test year used should
17 provide a foundation for determining the statutory requirement of just and
18 reasonable rates. Without the inclusion of the offsetting decreasing impacts to the
19 revenue requirement, the Commission will establish unfair, unjust and
20 unreasonable rates.

21
22 **Q. WHAT ARE THE STATEMENTS THE UTILITY MADE IN ITS MFRS ON**
23 **WHICH YOU ARE BASING YOUR STATEMENT THAT THE UTILITY IS**
24 **EXPECTING SUBSTANTIAL GROWTH IN CUSTOMERS AND**

² <http://www.merriam-webster.com/dictionary/cherry-pick>

1 **CONSUMPTION?**

2 A. On MFR Schedule F-6 page 2 of 4, it states in part:

3 In 2013 the maximum 3MADF³ was at 91% of the .499 MGD⁴
 4 permitted capacity. When the permitted capacity (measured in
 5 3MADF) will be equal or exceeded within the next six months, the
 6 permittee is required to submit an application for a
 7 construction/operating permit to expand. In April, 2014, KWRU
 8 submitted an application to FDEP to increase the processing
 9 capacity of the plant by .350 MGD based on known flows through
 10 2013. In June, 2014, the FDEP issued an "Intent to Issue" a
 11 construction permit. By October, 2014, the 3MADF had reached
 12 102% of the permitted capacity. At that point, the County would
 13 only issue dry permits until the KWRU expansion is approved and
 14 construction is under way. As a result, flows going forward are
 15 suppressed in 2015 from what they would have been. The need for
 16 the expansion is critical. In April, 2015, FDEP⁵ was still holding
 17 hearings wherein developers were concerned that the requested
 18 .350 GPD⁶ [sic] expansion was inadequate. The Utility rate of
 19 growth has been at a historical average of just over 7%, even
 20 considering recent slower growth due to suppression. It is expected
 21 to continue at that rate including and after the known suppressed
 22 demand comes on line in the year the plant expansion is completed.
 23

24 **Q. IS THE NEW TREATMENT PLANT EXPANSION DESIGNED FOR**
 25 **HISTORICAL CUSTOMER FLOWS OR FOR FUTURE CUSTOMER**
 26 **GROWTH?**

27 A. Clearly, expanding the treatment plant capacity from the existing capacity of .499
 28 MPD to .849 MPD (a 79% increase in capacity), is designed primarily for future
 29 growth. While some small component of the new plant is needed for current
 30 customer consumption, the majority of the plant expansion is designed for customer
 31 growth beyond the level of current customers.

32

33 **Q. WOULD ANOTHER TEST YEAR BE MORE APPROPRIATE THAN THE**

³ 3MADF is the 3 Month Average Daily Flow.

⁴ MGD is Million Gallons Per Day

⁵ FDEP is the Florida Department of Environmental Protection

⁶ GPD is Gallons Per Day

1 **2014 TEST YEAR TO ESTABLISH RATES AFTER THE WASTEWATER**
2 **TREATMENT PLANT IS PLACED INTO SERVICE?**

3 A. Yes. The growth from the wastewater treatment expansion will begin when the
4 new plant is placed into service. A projected test year of at least a year out from
5 the date the plant goes into service would clearly be more representative of the level
6 of investment, operating income and expenses, and customer billing determinants
7 for that first year. This will allow the rates established to be representative of the
8 circumstances at the time the new plant expansion is placed into service. KW did
9 not qualify to implement an interim rate increase due to the level of rate base and
10 operating earnings for the 2014 test year. However, the Utility was required to
11 implement advanced wastewater treatment to its existing treatment plant as of
12 January 1, 2016, and it is my understanding that it has done so. Understandably,
13 the existing treatment plant would incur additional costs of chemicals, purchased
14 power and sludge hauling expenses, as well as some additional operational
15 personnel.

16
17 **Q. IF THE 2014 TEST YEAR IS NOT APPROPRIATE, WHAT**
18 **ADJUSTMENTS SHOULD THE COMMISSION MAKE?**

19 A. The Company has stated that the new plant expansion will not be completed and
20 placed into service until the end of the first quarter of 2017. The best representative
21 test year would have been a 2017 average projected test year that takes into account
22 all of the matching items necessary to set rates for the time that the plant will be
23 placed into service. While a 2017 test year would be the best to use to set rates in
24 this docket, including the growth-related plant expansion, unfortunately that ship
25 has sailed. At this point, the Company has not provided the necessary information

1 to enable the Commission to properly establish the most reasonable test year for
2 the growth-related plant expansion and the resulting customer growth that will
3 ensue. That being said, for the many reasons which I will discuss later, an
4 alternative 2016 projected balance with proper adjustments can be utilized, which
5 will be much more representative than using an historic 2014 test year,. I will refer
6 to this as a Pro Forma Test Year Ended December 31, 2016. As I address the
7 different test year items in my testimony, I specifically outline the adjustments that
8 will allow an adjusted pro forma 2016 test year to be the most appropriate to set
9 prospective rates.

10

11 **Q. HAS THE COMMISSION PREVIOUSLY USED A PROJECTED TEST**
12 **YEAR WHEN GROWTH WAS OCCURRING AT AN EXCEPTIONAL**
13 **RATE TO BETTER MATCH INCREASING REVENUES WITH THE**
14 **HIGH LEVEL OF PRO FORMA ADDITIONS?**

15 A. Yes, the Commission has allowed projected test years on many occasions when
16 circumstances warranted matching a utility's investment with its operating income,
17 expenses, and customer growth. Also, projected test years are regularly used in
18 electric rate cases. One relevant case in the water and wastewater industry which
19 issues are very similar to KW's case, is the Burkim Enterprises, Inc. (Burkim), staff
20 assisted rate case (SARC). In Order No. PSC-01-2511-PAA-WS⁷, the
21 Commission, stated that it was appropriate to use a projected test year when the
22 Utility was growing at an exceptionally high rate per year. The Commission Order
23 in the Burkim case states:

⁷ Issued December 24, 2001, in Docket No. 010396-WS, In Re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc., pages 11-12.

1 For audit purposes, we selected a historical test year ending May 31,
 2 2001. Because the utility is growing at an exceptionally high rate (29
 3 connections per year), rates based on historical data alone will be
 4 significantly different than rates based on current or even future
 5 conditions, and the potential for overearning exists if a projected test
 6 year is not used. We find that a projected test year ending May 31, 2003
 7 is appropriate in this case and will better match increasing revenues with
 8 the high level of DEP required pro forma additions that are being
 9 approved.

10
 11 This is consistent with Order No. 15725, issued February 21, 1986, in
 12 Docket No. 840315-WS, In re: Application of Martin Downs Utilities,
 13 Inc. For an increase in water and wastewater rates to its customers in
 14 Martin County, Florida, in which we found the following:

15
 16 The test year is an analytical device used in rate making
 17 proceedings to compute current levels of investment and income
 18 in order to determine the amount of revenue that will be required
 19 to assure a company a fair return on its investment. Test year
 20 data must be adjusted to properly reflect conditions in the future
 21 period for which rates are being fixed. Based upon historical
 22 data we anticipate Martin Downs will continue to experience
 23 rapid growth of demand for its services.

24
 25 Therefore, we found that a projected test year was appropriate.

26
 27 Because of the above factors, we find that a projected test year is
 28 appropriate in this case to better match rate base with customer base on
 29 a going forward basis, and allow the utility an opportunity to earn a fair
 30 return on its investments. A projected test year ending May 31, 2003,
 31 shall be approved.

32
 33 (Emphasis added.)
 34

35 **Q. WHAT CIRCUMSTANCES ARE SIMILAR FROM THE TWO ABOVE**
 36 **CASES AND THE CURRENT KW RATE CASE?**

37 **A.** These two cases clearly represent similar facts to the KW case regarding growth.
 38 First, in the Burkim case, the Commission audited an historical case and then
 39 projected two years out. This is consistent with my testimony in this docket.
 40 Second, both Burkim and Martin Downs had significant expected growth and also
 41 significant growth in plant. In those cases, the Commission expressed concerns
 42 that if a projected test year were not used, then the future customer growth would

1 produce overearnings. These are precisely the same arguments that I am making
2 in this current rate case. Additionally, as OPC witness Woodcock addresses in his
3 testimony, the Burkim case limited the growth factor for the used and useful
4 calculation based on the 5% statutory cap. As I will address in the test year revenue
5 section of my testimony, the Commission in Burkim and Martin Downs used the
6 historical billing and customer growth factor to project forward two years after the
7 historical audited billing determinants. Based on the facts that I present in this case,
8 the Commission should be consistent with its prior practice and update the test year
9 in this case for Phase II rates to a pro forma 2016 year-end test year.

11 RATE BASE

12 Plant in Service

13 **Q. WHAT IS THE APPROPRIATE AMOUNT OF PLANT IN SERVICE FOR**
14 **ESTABLISHING PHASE I RATES?**

15 A. The amount of plant in service for the Phase I rates should be \$11,108,464, which
16 is the amount of plant in service that was approved in the PAA Order in this docket.
17 This reflects the adjustments made by the Commission to reflect the agreed-upon
18 audit reductions of \$817,240 from Audit Finding 1, and to remove the Utility's
19 requested pro forma plant of \$3,574,468, for a total decrease to plant of \$4,391,708.

20 **Q. WHEN YOU REFER TO "AGREED-UPON ADJUSTMENTS," TO WHAT**
21 **ARE YOU REFERRING?**

22 A. I am referring to the reference that the Commission uses in its PAA Order to
23 delineate adjustments to which both the Utility and Staff have agreed. By reading
24 these words, "agreed-upon," this could be interpreted as a stipulation among all
25 parties. However, this is not the case, as OPC in PAA proceedings routinely is not

1 asked to join into these agreements between the Utility and Staff. I am simply
2 making this clarification for the record, and will specifically delineate the issues
3 that I disagree with and which are part of the PAA Order as previously agreed-upon
4 adjustments.

5
6 **Q. DO YOU HAVE ANY COMMENTS THAT YOU WOULD LIKE TO MAKE**
7 **REGARDING AUDIT FINDING 1?**

8 A. Yes, in Audit Finding 1, the staff auditors made recommendations to correct the
9 Utility's plant balances since KW's last rate case in Docket 070293-SU. The test
10 year for that docket was the year ended December 31, 2006. In Order No. PSC-09-
11 0057-FOF-SU, issued January 27, 2009, the Commission made a \$933,498
12 reduction to plant in service in 15 separate adjustments to plant and 15
13 corresponding adjustments to accumulated depreciation. On page 46 of the order,
14 the Commission "ORDERED that the Utility shall provide proof within 90 days of
15 this final order that the adjustments for all the applicable NARUC USOA primary
16 accounts have been made."

17
18 **Q. DID THE UTILITY COMPLY WITH ORDER NO. PSC-09-0057-FOF-SU**
19 **AND FILE A REPORT TO PROVIDE PROOF THAT THE**
20 **ADJUSTMENTS FOR ALL THE APPLICABLE NARUC⁸ USOA⁹**
21 **PRIMARY ACCOUNTS HAVE BEEN MADE WITHIN 90 DAYS OF THIS**
22 **FINAL ORDER?**

⁸ National Association of Regulatory Utility Commissioners

⁹ Uniform System of Accounts

1 A. No. There is no filing from KW on the PSC's website in Docket No. 070293-SU
2 that addresses whether the Utility made the adjustments to correct its books to
3 reflect the Commission ordered adjustments from the Final Order in the last rate
4 case. This is a standard requirement in all water and wastewater rate cases before
5 the Commission for at least the last 15 years. While Commission staff did not
6 verify whether KW had complied with this requirement, it is the Utility's burden to
7 comply with the Commission's order.

8

9 **Q. DOES THE UTILITY'S FAILURE TO COMPLY WITH PSC ORDER NO.**
10 **PSC-09-0057-FOF-SU HAVE AN IMPACT IN THE CURRENT RATE**
11 **CASE?**

12 A. Yes, since the Utility's books and records are not consistent with the adjusted
13 balances as approved and required to be corrected in the last rate case. In addition,
14 as I discuss in detail in the Working Capital section of my testimony, the Utility
15 also hired outside accounting consultants to perform an analysis of its rate base
16 accounts prior to the filing of its current rate case, which will increase rate case
17 expense in this docket.

18

19 **Q. DO YOU BELIEVE THAT IT IS APPROPRIATE TO INCLUDE THE**
20 **UTILITY'S REQUESTED PRO FORMA ADJUSTMENT FOR THE**
21 **WASTEWATER TREATMENT PLANT EXPANSION IN PHASE I**
22 **RATES?**

23 A. No, I believe that it is completely inappropriate to include any pro forma plant for
24 growth-related plant in Phase I rates that will provide service to future customers
25 more than two years beyond the historical test year. Section 367.081(2)(a)2.,

1 Florida Statutes, provides that for purposes of establishing rates, the Commission
2 shall consider utility property, including facilities constructed or to be constructed,
3 not to exceed 24 months after the end of the historic test year used to set final rates,
4 unless a longer period is approved by the Commission, to be used and useful in the
5 public service. In this docket, the construction of the wastewater treatment plant is
6 clearly 24 months beyond the historic test year of 2014. Therefore, the
7 Commission, when setting Phase I rates, should not consider this pro forma plant.

8 Notwithstanding the above, the pro forma plant for the wastewater
9 treatment plant expansion can be considered when setting a Phase II rate increase
10 if those Phase II rates are based on a representative test period that reflects the net
11 investment levels, the corresponding operating expenses and the customer billing
12 determinants that will be in place at or near the time that the plant expansion is
13 placed into service.

14
15 **Q. DO YOU BELIEVE THAT IT IS APPROPRIATE TO ADD THE COST OF**
16 **THE VACUUM TANK REPLACEMENT IN PHASE I RATES?**

17 **A.** No, I do not. The Utility made no request in its initial application or its MFRs for
18 this plant replacement. Further, the plant is currently not in service and I am not
19 aware of the date that this plant will be placed into service. If it is placed into
20 service 24 months after the historical test year ended December 31, 2014, it should
21 not be included in Phase I rates. It should be noted that the Utility's testimony or
22 exhibits do not mention any date when the vacuum tank will be constructed and
23 placed into service. Based on the testimony of OPC witness Woodcock, I do
24 believe that consideration should be given to the appropriate amount of plant to be
25 considered for this vacuum tank plant addition in Phase II rates as long as the

1 appropriate retirement adjustments are made at the same time. Further, the Utility
2 has made no retirement entries related to the existing vacuum tank that will be
3 replaced and retired. The retirement entry does not impact rate base as it decreases
4 plant and accumulated depreciation by the same amount. However, it does reduce
5 depreciation expense on a going forward basis. Additionally, to the extent that
6 inclusion of this plant replacement increases the revenue requirement more than the
7 level requested in the Utility's petition and MFRs, any increase granted should be
8 limited to the revenue requirement requested. As I understand it from counsel, to
9 do otherwise would violate the customers' due process rights as they have not been
10 noticed of any revenue increase above that requested in KW's original PAA petition
11 and customer notices.

12
13 **Q. WHAT IS THE APPROPRIATE AMOUNT OF PLANT IN SERVICE TO**
14 **BE USED FOR SETTING PHASE I RATES?**

15 A. The appropriate amount of plant in service for Phase I rates should be \$11,108,464.

16
17 **Q. SHOULD ANY ADJUSTMENTS BE MADE TO PLANT IN SERVICE**
18 **ADDITIONS PLACED INTO SERVICE AFTER DECEMBER 31, 2014,**
19 **FOR ESTABLISHING PHASE II RATES?**

20 A. Yes. First, I applied the same agreed-upon adjustment to Plant which I made for
21 Phase I rates of (\$817,240). Second, the average balance of adjusted 2014 plant
22 included in rate base should be brought forward to the year-end balance approved
23 by the Commission in its PAA order. This results in an increase to plant of \$88,027.
24 Third, the OPC's recommended cost of the wastewater treatment plant expansion
25 should be included in plant in service for Phase II rates. In the Utility's MFRs, it

1 requested a pro forma adjustment of \$3,574,468. In the PAA Order, the
2 Commission lowered this adjustment to \$3,481,973. Exhibit CAJ-3, attached to
3 Utility witness Johnson's testimony contains a signed contract for the plant
4 expansion at a fixed cost of \$4.3 million. OPC witness Woodcock has testified that,
5 while on the high side, the \$4.3 million cost is reasonable for a treatment plant this
6 size in the Florida Keys. Therefore, I have reflected a \$1,202,968 increase to Phase
7 II plant to reflect the Company's revised treatment plant cost. This includes the
8 \$477,436 adjustment to capitalize the legal fees incurred to litigate the Utility's
9 construction permit for the wastewater treatment plant (WWTP) expansion. I
10 address this adjustment in detail in the working capital section of my testimony
11 regarding the Utility's requested deferred debits.

12
13 **Q. HAVE YOU MADE AN ADJUSTMENT TO PHASE II PLANT FOR THE**
14 **VACUUM TANK REPLACEMENT?**

15 **A.** Yes. It is also appropriate to allow recovery of the new vacuum tank plant addition
16 in the amount of \$474,552 in Phase II rates. In Utility witness Swain's direct
17 testimony, she added a requested pro forma amount for the tank replacement of
18 \$610,177. Based on the testimony of OPC witness Woodcock, \$135,625 should be
19 reduced from the Utility's pro forma amount for the tank replacement. Based on
20 Mr. Woodcock's adjusted balance of \$474,552, a retirement adjustment is
21 necessary as the existing vacuum system is being retired and replaced and will not
22 remain in service. I have based my retirement entry on 75% of the plant addition
23 cost which is a common method of determining the amount to retire for water and
24 wastewater utilities in Florida. The proper retirement entry is a decrease to plant
25 of \$355,914 for plant and a \$355,914 decrease to accumulated depreciation. Thus,

1 the retirement of the replaced tank has a zero impact on rate base. Further, while it
2 is normal to reflect an average test year balance in rate base, due to the materiality
3 of the plant improvements and customer growth, I agree with the Utility that it is
4 appropriate to include these items on a year-end basis, as long as the corresponding
5 projections to CIAC and customer billing determinants are recognized.

6
7 **Q. HAVE YOU MADE ANY OTHER ADJUSTMENTS TO PLANT IN**
8 **SERVICE TO UPDATE THE PLANT TO THE 2016 TEST YEAR?**

9 A. No, I have not, other than the \$12,000 pro forma addition of a truck that was
10 included in the PAA Order. The Company has not adequately shown that it has
11 made any other material adjustments to plant other than the wastewater treatment
12 plant expansion and the vacuum tank system.

13
14 **Q. WHAT IS THE APPROPRIATE AMOUNT OF PLANT IN SERVICE TO**
15 **BE USED FOR SETTING PHASE II RATES?**

16 A. The appropriate amount of plant in service for Phase II rates should be \$15,182,830.

17 Land

18 **Q. DO YOU AGREE WITH AUDITING FINDING 3 REGARDING LAND AND**
19 **LAND RIGHTS?**

20 A. Yes. In Audit Finding 3, the staff auditors recommended that land be reduced by
21 \$6,000 for the cost of a survey the Utility incurred in November 2014 to identify
22 and locate sewer mains that cross private property in its service territory. The cost
23 was not a land-related capital cost and should have been appropriately expensed.
24 Since it was a non-recurring cost, the auditors recommended that it be amortized

1 over 5 years, consistent with Rule 25-30.433(8), Florida Administrative Code
2 (F.A.C). The auditors recommended that the general ledger be corrected to reduce
3 land by \$6,000 and increase Contractual Services-Other by \$1,200 and increase
4 deferred debits by \$4,800. The adjustment to the filing to reflect the averaging
5 impact is to decrease land by \$923 and increase deferred survey fees by \$738, to
6 reflect an average rate base decrease of \$185. Contractual Services-Other should
7 be increased by \$1,200 ($\$6,000/5$), for the 2014 test year. I concur with this
8 adjustment.

9
10 **Q. DO YOU AGREE THAT IT IS PROPER TO USE RULE 25-30.433(8),**
11 **F.A.C., TO AMORTIZE THIS EXPENSE DURING THE TEST YEAR?**

12 A. Yes. This is the appropriate application of the rule for non-recurring expenses
13 incurred during the test year, as long as the costs are reasonable and prudent. It
14 should not be used for non-recurring expenses that occurred before the test year.

15
16 **Q. WHAT IS YOUR RECOMMENDED BALANCE OF LAND FOR BOTH**
17 **PHASE I AND PHASE II RATES?**

18 A. The appropriate balance of land should be \$374,077 for both Phase I and Phase II
19 rates.

20
21 Accumulated Depreciation

22 **Q. ARE YOU RECOMMENDING ANY ADJUSTMENTS TO**
23 **ACCUMULATED DEPRECIATION FOR ESTABLISHING PHASE I**
24 **RATES?**

1 A. Yes, I am. First, I concur with and recommend that the Commission's adjustments
2 to the balance of accumulated depreciation included in the PAA Order for Phase I
3 rates should be made. Accumulated depreciation should be increased to reflect the
4 net adjustment of the PAA agreed-upon audit adjustments of \$2,040 recommended
5 by Audit Finding 2. Second, it is appropriate to remove the Utility's pro forma
6 plant to accumulated depreciation of \$196,281 related to the wastewater treatment
7 plant expansion pro forma adjustment. Consistent with my testimony in the plant
8 in service section above, I am not recommending the inclusion of any pro forma
9 plant for the plant expansion or the vacuum tank replacement. However, as
10 discussed below, I am recommending for Phase I that the Utility's adjustment to
11 annualize the 2014 depreciation expense of \$4,384 should be disallowed. The total
12 adjustment that I am recommending to accumulated depreciation is a decrease of
13 \$198,625 for Phase I rates.

14

15 **Q. WOULD YOU COMMENT ON THE NUMBER OF ADJUSTMENTS**
16 **INCLUDED IN STAFF'S AUDIT FINDING 5, REGARDING**
17 **ACCUMULATED DEPRECIATION?**

18 A. Yes, I again note the volume and amount of adjustments recommended by the
19 auditors and how the Utility's books and records have not been maintained in
20 accordance with the adjustments as ordered by the Commission in the prior rate
21 case and the Uniform System of Accounts.

22

23 **Q. DO YOU AGREE WITH THE COMPANY'S ADJUSTMENT TO THE**
24 **TEST YEAR TO ANNUALIZE THE ACCUMULATED DEPRECIATION**
25 **BASED ON THE PLANT ADDITIONS MADE IN 2014?**

1 A. No, I do not. This is clearly a violation of the test year concept, and is also a
2 matching violation. Basically, this adjustment allows the Utility to have a year-end
3 depreciation expense, while KW's test year includes only average CIAC, average
4 amortization of CIAC, and average billing determinants. As a result, this type of
5 adjustment is a "pick and choose" or "cherry-picking" adjustment that incorporates
6 only the increases and ignores any corresponding and appropriate decreases. The
7 test year concept is quite clear that you need to match the investment with the
8 operating revenues and expenses, along with the billing determinants for the same
9 test year on either an average or year-end basis. To blend some year-end items with
10 some average items is an obvious violation of the matching principal.

11

12 **Q. IS THERE ANOTHER REASON OTHER THAN A MATCHING**
13 **VIOLATION AS TO WHY THIS ADJUSTMENT IS IMPROPER?**

14 A. Yes. It is also a violation of the statutory requirement that CIAC, Accumulated
15 Amortization of CIAC, and test year amortization of CIAC are properly included
16 in the revenue requirement calculation. Section 367.081(2)(a)1, Florida Statutes,
17 states in part:

18 However, the commission shall not allow the inclusion of
19 contributions-in-aid-of-construction in the rate base of any
20 utility during a rate proceeding ... and accumulated depreciation
21 on such contributions-in-aid-of-construction shall not be used to
22 reduce the rate base, nor shall depreciation on such contributed
23 assets be considered a cost of providing utility service.

24

25 **Q. PLEASE PROVIDE THE COMPARATIVE IMPACT OF WHY THIS**
26 **ANNUALIZATION ADJUSTMENT IS IMPROPER?**

1 A. The MFRs in this case reflect the difference between average and year-end plant
2 additions in 2014 was \$204,353, to which the year-end annualization adjustment
3 for depreciation expense and accumulated depreciation was made by KW. The
4 corresponding difference between average and year-end CIAC for the 2014 test
5 year was \$136,012. Thus, allowing the Utility to make a one-sided adjustment
6 overstates depreciation expense by ignoring the impact of the annualization of
7 amortization of CIAC. This violation of the test year matching concept, as well as
8 the statutory violation of not including test year amortization of CIAC on
9 contributed plant, should be disallowed. Accordingly, accumulated depreciation
10 should be increased by \$4,384 and depreciation expense should be decreased by
11 \$4,384 to remove these improper adjustments to reflect year-end depreciation
12 expense.

13

14 **Q. WHAT IS THE TOTAL AMOUNT OF ACCUMULATED DEPRECIATION**
15 **THAT YOU ARE RECOMMENDING FOR PHASE I RATES?**

16 A. I am recommending a balance of Accumulated Depreciation for Phase I of
17 \$5,830,802. This is based on the two Accumulated Depreciation adjustments made
18 by the Commission in its PAA Order for the Phase I rate base, plus my
19 recommended adjustment to remove the improper adjustment to annualize test year
20 depreciation expense.

21

22 **Q. SHOULD ANY ADJUSTMENTS BE MADE TO THE BALANCE OF**
23 **ACCUMULATED DEPRECIATION PLACED INTO SERVICE AFTER**
24 **DECEMBER 31, 2014, FOR ESTABLISHING PHASE II RATES?**

1 A. Yes. I am recommending several adjustments to accumulated depreciation for
2 Phase II rates. First, I start out with my adjusted Phase I adjustment to accumulated
3 depreciation for the agreed-upon Adjustment from Audit Finding 5 of (\$2,040).
4 My other two adjustments to Phase I Accumulated Depreciation are not necessary
5 as I am adjusting my balances to the Utility's full request, not an incremental Phase
6 I to Phase II method that the Commission used in the PAA Order. Next, as I
7 testified earlier, it is proper to update the test year to 2016, which is a more
8 representative period that will be consistent with and closer to the timeframe when
9 the treatment plant expansion will be placed into service.

10

11 **Q. WHAT TYPES OF ADJUSTMENTS DO YOU RECOMMEND TO BRING**
12 **THE 2014 TEST YEAR FORWARD TO 2016?**

13 A. As I explained earlier, since we do not have the necessary information and
14 documentation from the Utility to update the test year to a more representative
15 period when the new plant will be placed into service, a reasonable proxy is to
16 update the 2014 average balance to a year-end basis, and then add two years of
17 accumulated depreciation based on the 2014 test year depreciation expense. The
18 average to year-end adjustment to accumulated depreciation is an increase to
19 accumulated depreciation of \$183,207. This adjustment is net of the Company's
20 adjustment to reflect year-end accumulated depreciation for the 2014 test year plant
21 additions. Based on the Commission Staff's workpapers used to calculate the year-
22 end plant investment included in the PAA Order, I have calculated the 2014 year-

1 end Depreciation Expense to be \$462,339¹⁰. Thus, for the two year update to 2016,
2 the 2014 balance of Accumulated Depreciation should be increased by \$924,677.

3

4 **Q. WHAT IS THE NEXT ADJUSTMENT THAT SHOULD BE MADE TO**
5 **ACCUMULATED DEPRECIATION FOR THE UPDATED 2016 PRO**
6 **FORMA TEST YEAR?**

7 A. Next, it is appropriate to add the accumulated depreciation related to the pro forma
8 cost of the wastewater treatment plant expansion costs and the vacuum tank
9 addition, along with the corresponding retirement. Based on the recommendations
10 of OPC witness Woodcock as to the proper amounts of the pro forma plant
11 expansion and the vacuum tank replacement, incremental Accumulated
12 Depreciation should be increased by \$67,026 and \$26,385, respectively. I am
13 recommending that a year-end expense be allowed for this plant since I am
14 recommending the full year of plant in rate base and also updating the other
15 components of the test year as necessary for depreciation expense and property
16 taxes.

17

18 Non-used and Useful Plant Adjustments

19 **Q. ARE YOU RECOMMENDING ANY ADJUSTMENTS TO NON-USED AND**
20 **USEFUL PLANT FOR PHASE I RATES?**

21 A. No. As testified by OPC witness Woodcock, the current 2014 level of plant is
22 100% used and useful; therefore, no adjustments are necessary for Phase I.

23

¹⁰ This adjustment was made before the inclusion of any pro forma plant additions for the plant expansion of the treatment plant or vacuum tank.

1 **Q. ARE YOU RECOMMENDING ANY ADJUSTMENTS TO NON-USED AND**
2 **USEFUL PLANT FOR PHASE II RATES?**

3 A. Yes, based on the used and useful recommendations of OPC witness Woodcock. I
4 have taken the non-used and useful percentage of 25% and applied it to the
5 recommended balance of plant, accumulated depreciation, depreciation expense
6 and property tax expense as shown on my Exhibit PWM-3, Schedule 1-D. The
7 recommended adjustments were applied to the following accounts:

8 354.4 Structures & Improvements
9 380.4 Treatment and Disposal Equipment
10 381.4 Plant Sewers
11 389.4 Other Plant & Miscellaneous Equipment

12 I have also made the corresponding adjustments to the same accumulated
13 depreciation and depreciation expense accounts, as well as to the adjusted property
14 tax expenses.

15
16 **Q. WHAT ARE YOUR RECOMMENDED ADJUSTMENTS TO REFLECT**
17 **THE OPC'S USED AND USEFUL PERCENTAGES?**

18 A. I have recommended a reduction to rate base of \$1,632,646 (Plant in Service of
19 \$2,429,995 less Accumulated Depreciation of \$797,349). I also recommend
20 reductions to Depreciation Expense of \$130,954 and to property taxes of \$16,177.

21 Contributions in Aid of Construction (CIAC) and Accumulated Amortization of CIAC
22 Phase I CIAC

23 **Q. ARE YOU RECOMMENDING ANY ADJUSTMENTS TO CIAC FOR**
24 **ESTABLISHING PHASE I RATES?**

1 A. Yes, I am. I concur with and recommend that the Commission's adjustments to the
2 balance of CIAC included in the PAA Order for Phase I rates should be made.
3 CIAC should be decreased to reflect the net adjustment of the PAA agreed-upon
4 audit adjustments of \$297,120 recommended by Audit Finding 4. (This adjustment
5 results in an increase to rate base.) Consistent with my adjustments to plant and
6 accumulated depreciation for purposes of the Phase I revenue requirement, I am not
7 recommending any updates to reflect the amount of CIAC collected after December
8 31, 2014. The total balance of CIAC for Phase I rates should be \$9,649,877.

9
10 **Q. ARE YOU RECOMMENDING ANY INCREASE TO CIAC RELATED TO**
11 **THE COLLECTION OF ADDITIONAL CIAC FROM EXISTING**
12 **CUSTOMERS FOR PHASE I RATES?**

13 A. Not at this time. However, the collection of \$310,187 in 2015 and \$179,281 in
14 2016 in additional CIAC from existing customers truly reflects another reason why
15 the 2014 test year is unreasonable for setting prospective rates for 2017.

16
17 **Q. WHAT IS YOUR RECOMMENDED BALANCE OF ACCUMULATED**
18 **AMORTIZATION OF CIAC FOR PHASE I RATES?**

19 A. I concur with and recommend that the Commission's adjustments to the balance of
20 Accumulated Amortization of CIAC included in the PAA Order for Phase I rates
21 should be made. Accumulated Amortization of CIAC should be decreased to
22 reflect the net adjustment of the PAA agreed-upon audit adjustments of \$81,153
23 recommended by Audit Finding 4, for a total balance of \$3,014,941. Since I am
24 not recommending any updates to CIAC collected after December 31, 2014, I am

1 not recommending any additional adjustments to Accumulated Amortization of
2 CIAC for Phase I rates.

3

4 **Q. DO YOU HAVE ANY COMMENTS REGARDING THE STAFF AUDIT**
5 **ADJUSTMENTS IN AUDIT FINDING 4, REGARDING CIAC AND THE**
6 **AMORTIZATION OF CIAC?**

7 A. Yes, I do. I again point out the large amount of outside accounting work that was
8 incurred to correct and revise the Utility's books and records to be in compliance
9 with the Commission's Order from the last rate case. Included in the staff audit
10 workpapers, there was a 20-page document referred to as "Restatement of CIAC"
11 provided by the Company to reflect the results of the accounting consultant's
12 analysis. Based on the volume of the audit workpapers on the CIAC and the
13 Amortization of CIAC issue, considerable time was spent by the staff auditors in
14 reviewing these accounts since the last rate case. As I testified previously, this
15 clearly reflects that the Utility's books and records were not maintained in
16 accordance with the Uniform System of Accounts or in compliance with the
17 Commission's previous rate case order. I also recommend that the Commission
18 carefully review the accounting rate case expense invoices to determine whether
19 the Utility's inadequate record keeping has increased the amount of accounting
20 work performed to prepare the MFRs, address audit findings and respond to
21 discovery, thus increasing rate case expense. Any rate case expense related to
22 bringing the Utility's books into compliance included in rate case expense should
23 be disallowed.

24

25 Phase II CIAC

1 **Q. SHOULD ANY ADJUSTMENTS BE MADE TO THE BALANCE OF CIAC**
2 **AFTER DECEMBER 31, 2014, FOR ESTABLISHING PHASE II RATES?**

3 A. Yes, I am recommending several adjustments to CIAC for Phase II rates. First, I
4 make the agreed-upon adjustment from Audit Finding 5, which is a decrease to
5 CIAC of \$297,120. Second, as I testified earlier, it is proper to update the test year
6 to 2016, which is a more representative period that will be consistent with the
7 timeframe when the treatment plant will be placed into service. Consistent with
8 my adjustment to plant and accumulated depreciation, I have adjusted the 2014
9 average balance of CIAC from the PAA Order Phase I revenue requirement to the
10 year-end balance. The average to year-end adjustment to CIAC is an increase of
11 \$136,012.

12
13 **Q. HOW MUCH ACTUAL CIAC HAS BEEN COLLECTED AFTER THE END**
14 **OF 2014, THE HISTORICAL TEST YEAR REQUESTED BY THE**
15 **UTILITY?**

16 A. According to its 2015 Annual Report and KW's response to OPC's Interrogatory
17 7, the Utility collected \$310,187 in CIAC for 2015. KW's response to Interrogatory
18 7 also reflects that it collected \$110,583 in CIAC from January to April 2016.
19 According to KW's response to OPC Interrogatory 27, it collected an additional
20 \$68,698 in CIAC in May 2016. Thus, since the test year, the Utility has collected
21 at least \$489,469 in 2015 and 2016. Before any future plant expansion or pro forma
22 plant is allowed, it is critical and appropriate to include the actual 2015 and January
23 through May 2016 CIAC that the Company collected.

24

1 **Q ARE THERE ANY OUTSTANDING PAYMENTS OF CIAC THAT ARE**
2 **CURRENTLY SUPPORTED BY EXECUTED DEVELOPER**
3 **AGREEMENTS?**

4 A. Yes. The Utility has 3 outstanding CIAC receivables of \$14,539.50 each from the
5 Florida Keys Linen, LLC due August 15, 2016, November 15, 2016, and February
6 15, 2017. I have attached Exhibit PWM-4 which is an Addendum to a December
7 6, 2012 Utility Agreement with Florida Keys Linen, LLC, from the Utility's
8 response to OPC Interrogatory 27. This addendum outlines the payments due from
9 May 2014 to February 2017, and is the result of a recalculation of the gallons of
10 water treated and, thus, the number of ERCs that this customer is currently using.
11 All of the required payments apparently have been made on a timely basis to date.

12
13 **Q. IS IT CORRECT THAT IN ITS HISTORICAL 2014 TEST YEAR, THE**
14 **UTILITY HAS REQUESTED A FULL YEAR OF DEPRECIATION**
15 **EXPENSE AND DIRECT OPERATIONAL EXPENSES ASSOCIATED**
16 **WITH THE PLANT EXPANSION BUT HAS MADE NO ADJUSTMENTS**
17 **TO OFFSET THOSE EXPENSES WITH THE CIAC THAT WILL BE**
18 **COLLECTED OR THE CUSTOMER GROWTH THAT IS EXPECTED**
19 **SHORTLY AFTER THE PLANT IS PLACED INTO SERVICE?**

20 A. Yes, it is. If the Commission allows the new rates to be set without the
21 consideration of the CIAC and the expected customer growth, then the rates
22 established will immediately provide excess earnings to the Utility at a substantial
23 cost to the existing and future customers. This will also violate the matching
24 principle.

25

1 **Q. OTHER THAN INCLUDING THE ACTUAL AND SOON TO BE**
2 **COLLECTED CIAC, WHAT OTHER ADJUSTMENTS DO YOU**
3 **RECOMMEND?**

4 A. Based on the Utility's statements that growth has been stunted because of the
5 limited capacity of the existing plant, it is reasonable to expect the Utility will begin
6 adding new customers once the plant expansion is online and operational. The dry
7 permits that have been issued can be fulfilled and connected once the plant is
8 operational as well. It is only fair that, if the used and useful investment is allowed
9 in rates, along with the first year's operating expenses, a projection should also be
10 made to add the CIAC that will be collected in this first year, as well as the increase
11 in revenues for these customers and the consumption that those additional
12 customers will bring. The Utility has not provided reasonable estimates of how
13 much growth will occur once the new plant is operational, and continues to argue
14 that the historical test year is appropriate because it was audited and the MFRs were
15 already prepared using that test year. While I agree with the Utility that audited
16 books and records are much more reliable, especially given this Utility's poor
17 record keeping, it is crucial that the growth components be estimated forward to at
18 least 2016; otherwise, there is a mismatch of projected expenses to projected
19 revenues. Again, this is a violation of the matching principle.

20
21 **Q. HOW DO YOU RECOMMEND THAT THE GROWTH IN ERCS FOR**
22 **PURPOSES OF ADDING CIAC BE CALCULATED?**

23 A. It is reasonable to use the same percentage growth in ERCs that is used in the
24 growth allowance for the used and useful calculation. Based on OPC witness
25 Woodcock's recommended growth allowance of 5% per year and his annual growth

1 in the number of ERCs of 222, I have estimated the additional level of ERCs will
2 be added in the first year of operations. According to KW's response to OPC's
3 Interrogatory 27, the Utility stated that it pre-collected 48.88 ERCs in future CIAC
4 (\$131,976 from Oceanside Investors and Stock Island Marina Phase II). The Utility
5 did not list the amount of future ERCs received from the Oceanside Marina Condo
6 Association, so I backed into the amount of ERCs by taking the \$25,920 collected
7 for future ERCs and divided it by the Utility's \$2,700 plant capacity charge per
8 ERC. Adding the 9.60 ERCs estimated from Oceanside, I have assumed that the
9 Utility has pre-collected 58.48 ERCs in 2016. I have already incorporated these
10 actual CIAC payments into my prior adjustment to CIAC. It is appropriate to add
11 the additional 163.68 ERCs at \$2,700 per ERC to equal the total number of ERCs
12 that are expected in the first year. This results in an increase to CIAC of \$441,931.

13
14 **Q. IS YOUR ADJUSTMENT TO INCREASE CIAC CONSISTENT WITH**
15 **HOW THE COMMISSION HAS INTERPRETED SECTION 367.081(2)(A)2,**
16 **FLORIDA STATUTES?**

17 **A.** Yes. Clearly, the adjustment that I am recommending is a projection of the amount
18 of CIAC that will added in the first year the plant will be placed into service. This
19 is just as appropriate as projecting the estimated amount of operating expenses as
20 they are only estimates or projections at this time and obviously will not be known
21 until the end of the year after the plant is placed into service. In addition, if you do
22 not consider the projected CIAC, you will in fact violate the very same statutes that
23 state the Commission shall not allow a return on plant that has been contributed in
24 setting rates. Section 367.081(2)(a)1., Florida Statutes, states:

25 The commission shall, either upon request or upon its own motion,
26 fix rates which are just, reasonable, compensatory, and not unfairly

1 discriminatory. In every such proceeding, the commission shall
 2 consider ... all property used and useful in the public service;
 3 However, the commission shall not allow the inclusion of
 4 contributions-in-aid-of-construction in the rate base of any utility
 5 during a rate proceeding, nor shall the commission impute
 6 prospective future contributions-in-aid-of-construction against the
 7 utility's investment in property used and useful in the public
 8 service....

9 (Emphasis Added)

10

11 **Q. HOW HAS THE COMMISSION INTERPRETED THE EMPHASIZED**
 12 **LANGUAGE REGARDING THE INCLUSION OF CIAC IN RATE BASE?**

13 A. The Commission has historically interpreted this section to mean that all CIAC
 14 related to used and useful plant should be included as a reduction to rate base.

15

16 Accumulated Amortization of CIAC - Phase II

17 **Q. WHAT ADJUSTMENTS DO YOU RECOMMEND TO ACCUMULATED**
 18 **AMORTIZATION OF CIAC FOR PHASE II RATES?**

19 A. First, I have included the adjustment to reflect the agreed-upon adjustment to
 20 decrease Accumulated Amortization of CIAC of \$81,153 from Audit Finding 4,
 21 consistent with my adjustment for Phase I rates. Second, based on my
 22 recommended adjustments to CIAC, it is appropriate to increase Accumulated
 23 Amortization of CIAC by \$204,033 to reflect the 2014 year-end balance. Third,
 24 consistent with my adjustment to accumulated depreciation, I have added two years
 25 of the 2014 year-end amortization expense of CIAC of \$682,928 to reflect the
 26 amount that would have been added in for 2015 and 2016. Fourth, consistent with
 27 my adjustments to CIAC, I increased Accumulated Amortization of CIAC by
 28 \$27,903 to reflect the addition of actual CIAC additions for 2015 and January
 29 through May 2016. Lastly, I have added Accumulated Amortization of CIAC on
 30 the projected additions to CIAC for the 2016 pro forma test year of \$15,421. For

1 all of these adjustments, I have utilized the amortization rate used in the PAA Order
2 of 3.49%. Based on these adjustments, the Phase II amount of Accumulated
3 Amortization of CIAC should be \$3,945,225.

4
5 Construction Work in Progress (CWIP)

6 **Q. DO YOU AGREE WITH THE STAFF AUDIT FINDING 2 REGARDING**
7 **CONSTRUCTION WORK IN PROGRESS (CWIP)?**

8 A. Yes, for the Phase I rate increase. The staff auditors in Audit finding 2 stated that
9 the invoices the Utility recorded to Plant in Service for the wastewater treatment
10 plant expansion were reclassified to CWIP in Finding 1. The auditors
11 recommended that the Utility create a CWIP account to record the cost for the
12 wastewater plant expansion project, with a balance of \$158,151 as of December 31,
13 2014, and an additional addition to CWIP of \$144,984 to record in 2015. I am
14 recommending an addition to CWIP of \$303,135 for the plant expansion costs.¹¹
15 In addition, the 2015 balance of the Last Stand Legal Fees should be recorded in
16 CWIP until the new wastewater treatment plant is placed into service. This results
17 in an increase to CWIP of \$477,436. When the WWTP expansion is placed into
18 service, the final recommended amount of the CWIP should be capitalized into
19 plant in service and there will be a zero balance of CWIP in Phase II rates. My total
20 balance of CWIP for Phase I rates is \$780,571.

21
22 Working Capital

23 Cash

¹¹ The PAA Order had an amount from the 2015 amount in the audit report, which is apparently a transposition error.

1 Q. ARE YOU RECOMMENDING ANY ADJUSTMENTS TO KW'S
2 WORKING CAPITAL ALLOWANCE?

3 A. Yes. I am supporting most of the Commission approved adjustments to working
4 capital with a few exceptions that I will explain below. First, I will address the
5 adjustments that were made in the PAA Order with which I agree.

6

7 Q. DO YOU AGREE WITH THE BALANCE OF CASH APPROVED BY THE
8 COMMISSION IN THE PAA ORDER?

9 A. Yes. I agree with the adjustments to Cash that the Commission approved in its
10 PAA Order. In its filing, the Utility's requested working capital allowance included
11 a cash balance of \$877,289. This balance is \$666,869 higher than the balance
12 requested and approved for cash in the last rate case of \$210,420. I agree with the
13 following adjustments to Cash made by the Commission.

14 The Commission's first adjustment was to remove \$126,930 associated with
15 an escrow account that was closed in March 2015, which contained escrowed funds
16 from capacity fees collected for the vacuum expansion project between Monroe
17 County and KW Resort. The Commission stated that because ratemaking is
18 prospective in nature, a normalization adjustment was necessary to remove the cash
19 amounts associated with this closed escrow account. The second adjustment to
20 cash was to remove another escrow account in cash working capital titled
21 "Customer Escrow Account," which is related to customer deposits. Since
22 customer deposits are a component of the Utility's capital structure, the
23 Commission removed the \$141,828 13-month average to reflect the removal of
24 customer deposits.

1 The third adjustment the Commission made was to remove a capital
2 operating account with a balance of \$375,840. The Utility stated that this account
3 was created in order to pay for capital projects, instead of having to transfer from
4 the operating account. In response to staff's second data request, the Utility stated
5 that this account will remain active and require an approximate \$400,000 minimum
6 necessary to ensure a proper capital budget may be undertaken each year to allow
7 the Utility to operate properly. The Commission had a number of concerns with
8 this account in the test year. These concerns were that the account was never drawn
9 down on in the test year for its stated purpose, the balance never changed
10 throughout the test year, and the account was equivalent to temporary cash
11 investment which provided no benefit to the ratepayers. The Commission removed
12 the 13-month average of \$231,286 from working capital.

13 The Commission's final adjustment to cash related to an account funded by
14 a single transfer from the operating account in May 2014. Preceding this transfer,
15 the balance of the operating account increased in January 2015 because of a
16 \$500,000 deposit. To be consistent with the rationale for removing the capital
17 operating account, the Commission removed this \$115,643 amount from the 13-
18 month average balance operating account.

19 The Commission's total decrease of \$615,687 resulted in an approved cash
20 balance of \$261,602, which exceeded the cash balance of \$210,420 approved in
21 KW's last rate case by \$51,182. The Commission concluded that it had compared
22 the average monthly O&M expenses, including pro forma AWT operating
23 expenses, to this balance and found that the \$261,602 cash level was an appropriate
24 balance.

25

1 **Q. WHAT CONCLUSIONS DO YOU HAVE REGARDING THE LEVEL OF**
2 **CASH THAT THE UTILITY HAS REQUESTED AND THE**
3 **ADJUSTMENTS APPROVED BY THE COMMISSION?**

4 A. The Utility's requested balance of \$877,289 is clearly excessive and should not be
5 approved. The Commission's adjustments establish a reasonable level of the cash
6 needs of this Company. The Utility's 2015 cash balance of \$157,269 plus the
7 amount included in special deposits of \$204,268 (a total of \$361,537) is
8 significantly lower than the 2014 requested level of cash. The 2014 level of cash
9 was clearly an anomaly especially when compared to KW's 2015 Annual Report.
10 Further, the Utility's argument that it needs more cash because it is building a major
11 plant expansion does not support a need for such a huge balance of cash in working
12 capital. Therefore, I concur with and recommend the Commission's adjustments
13 made to Cash in the PAA Order.

14

15 Accounts Receivable – Other and Miscellaneous Current & Accrued Assets

16 **Q. DO YOU AGREE WITH THE STAFF'S AUDIT ADJUSTMENTS IN AUDIT**
17 **FINDING 7, REGARDING OTHER WORKING CAPITAL**
18 **ADJUSTMENTS?**

19 A. I agree with the Audit Staff's recommendation that average Accounts Receivable-
20 Other should be increased by \$40,067 to reflect the cash clearing account for
21 service availability and other customer receivables and extraordinary income
22 corrections. I also agree with the audit recommendation to remove the \$13,422
23 balance of Miscellaneous Current & Accrued Assets which include utility deposits.
24 As I have testified, the adjustment for the wastewater permit and legal fees should

1 be capitalized to CWIP for Phase I and transferred to plant in service in Phase II.
2 The net adjustment to working capital is an increase of \$26,645.

3

4 Deferred Debits - Other

5 Survey Fees

6 **Q. YOU ADDRESSED AUDIT FINDING 3, REGARDING LAND AND LAND**
7 **RIGHTS, EARLIER IN YOUR TESTIMONY. WHAT IMPACT DOES**
8 **THAT ADJUSTMENT HAVE TO WORKING CAPITAL?**

9 A. In Audit Finding 3, the staff auditors recommended that land be reduced by \$6,000
10 for the cost of a survey the Utility incurred in November 2014 to identify and locate
11 sewer mains that cross private property in KW's service territory. I agree that land
12 should be reduced by \$6,000, Contractual Services-Other should be increased by
13 \$1,200, and deferred debits should be increased by \$4,800.

14

15 **Q. PLEASE EXPLAIN YOUR POSITION ON THE COMPANY'S**
16 **REQUESTED BALANCE OF DEFERRED DEBITS TO BE INCLUDED IN**
17 **WORKING CAPITAL.**

18 A. The Utility made a pro forma adjustment to deferred debits other than rate case
19 expense in its filing. The adjustment was to defer and amortize legal and consulting
20 fees it incurred to defend its application for a construction permit for its wastewater
21 treatment plant expansion. While the Utility did not make an additional adjustment
22 to working capital, it did request to defer and amortize accounting fees incurred to
23 correct its books and records after KW's last rate case to be in compliance with the
24 Commission's Order in its last rate case and the Uniform System of Accounts. I
25 do not agree with this adjustment, and I will address each of these topics below.

1

2 Deferred Debits – Construction Permit Litigation

3 **Q. DO YOU AGREE WITH THE UTILITY'S REQUEST TO DEFER AND**
4 **AMORTIZE THE LEGAL AND CONSULTING FEES INCURRED TO**
5 **DEFEND ITS CONSTRUCTION PERMIT RELATED TO KW'S**
6 **WASTEWATER TREATMENT EXPANSION?**

7 A. No, I do not. The Utility's filing includes a pro forma adjustment to Miscellaneous
8 Deferred Debits of \$467,625 for the estimated costs to modify its wastewater permit
9 in conjunction with the wastewater plant expansion as reflected on MFR Schedule
10 A-17. It also requested that it be permitted to amortize the total cost incurred over
11 5 years and requested an annual amortization expense of \$103,917. As I discuss
12 below, these costs should appropriately be capitalized to the cost of plant and are
13 not period or non-recurring expenses.

14

15 **Q. DO YOU AGREE WITH THE AUDIT ADJUSTMENTS TO ADJUST THE**
16 **AMOUNT OF COSTS INCURRED TO DEFEND KW'S WASTEWATER**
17 **PERMIT?**

18 A. Yes. In Audit Finding 1, the auditors reduced plant by \$30,090 for engineering
19 costs related to the wastewater permit modification and reclassified the costs to add
20 them to the deferred asset account for the wastewater permit fees. I agree with this
21 adjustment to remove the costs from plant in Phase I, and I have included them in
22 the balance of CWIP. Further, in Audit Finding 16, the staff auditors reduced the
23 deferred asset account for permit fees by \$42,157 to remove unsupported legal fees
24 from the wastewater permit fees. I also agree with this adjustment and these costs
25 are not included in my balances of CWIP, as they were unsupported.

1

2 **Q. DO YOU BELIEVE THAT IT IS PROPER TO DEFER AND AMORTIZE**
 3 **THE LEGAL AND CONSULTING COSTS OVER A FIVE-YEAR PERIOD?**

4 A. No, I do not. These costs were incurred directly by KW to obtain permission from
 5 DEP to build KW's treatment plant expansion. While the title of the permit was
 6 labeled as an operating and construction permit, the permit for the existing plant
 7 had two more years before it expired. This permit was necessary only for the fact
 8 that the utility wanted and needed to expand its capacity. The legal challenge did
 9 not impact the operations of the existing treatment plant. It was directed primarily
 10 at the capacity expansion and the desire of the Last Stand organization to require
 11 the Utility to implement deep well injection for effluent disposal. These legal fees
 12 clearly belong with the capital costs associated with the plant expansion and should
 13 be recovered over the life of the plant. They should not be considered non-recurring
 14 expenses for renewing a normal operating permit. According to the NARUC¹²
 15 Uniform System of Accounts (USOA), legal fees associated with the construction
 16 of a plant should be capitalized.

17 Accounting Instruction 19. Utility Plant - Components of
 18 Construction Cost

19 The cost of construction properly includible in the utility plant
 20 accounts shall include, where applicable, the direct and overhead
 21 costs as listed and defined hereunder:

22 (1) "Contract work" includes amounts paid for work performed
 23 under contract by other companies, firms, or individuals, costs
 24 incident to the award of such contracts, and inspection of such
 25 work.

26 (9) "Privileges and permits" includes payments for and expenses
 27 incurred in securing temporary privileges, permits or rights in
 28 connection with construction work, such as for the use of private or
 29 public property, streets, or highways, but it does not include rents,
 30 or amounts chargeable as franchises (See account 302 -
 31 Franchises).

¹² National Association of Regulatory Utility Commissioners

1 (15) "Legal expenditures" includes the general legal expenditures
2 incurred in connection with construction and the court and legal
3 costs directly related thereto, other than legal expenses included in
4 protection, item 7, and in injuries and damages, item 8.
5

6 Since the wastewater treatment plant is not in service, the auditor's adjusted cost of
7 the construction permit legal and consulting fees of \$477,436 should be recorded
8 in CWIP for the Phase I rates. For Phase II rates, the costs should be added to
9 Account 380-Wastewater Treatment & Disposal Plant. The Utility's requested
10 deferred debit balance of \$467,625 for the legal and consulting fees should be
11 removed from Working Capital. Test year O&M Expenses should also be reduced
12 by the Utility's requested \$103,917 in amortization. For clarity, I have removed
13 the Utility's requested amortization, but not the amount of amortization that was
14 included in the PAA Order. This adjustment allows the Utility to recover its
15 litigation costs over the life of the plant, which is the appropriate recovery method
16 pursuant to the Uniform System of Accounts and the resulting rate impact to
17 customers is substantially less.
18

19 Deferred Debits - Accounting Fees

20 **Q. PLEASE ADDRESS THE COMPANY'S REQUEST TO AMORTIZE**
21 **ACCOUNTING FEES OVER FIVE YEARS AND THE IMPACT ON ITS**
22 **WORKING CAPITAL ALLOWANCE.**

23 A. On MFR Schedule B-3, page 1, KW increased its O&M Expenses by \$11,678,
24 which was described as "To amortize expenses incurred to restate 2007-2012
25 Annual Reports." The Utility apparently did not request that working capital be
26 increased to reflect the unamortized balance.

1 **Q. DID KW ACTUALLY RESTATE ITS 2007-2012 ANNUAL REPORTS**
2 **WITH THE COMMISSION?**

3 A. It does not appear that the Utility restated its annual reports on file with the
4 Commission, nor have I seen any restated or re-filed Annual Reports for this time
5 frame.

6
7 **Q. WHEN DID THE UTILITY PERFORM THIS ACCOUNTING AND**
8 **RECORD-KEEPING REVIEW?**

9 A. According to the invoices provided to the Staff Auditors, the accounting review
10 was performed in 2014. According to Exhibit CAJ-4, Page 2 of 269, entitled Data
11 Request Responses, Staff asked the following question 4 on the deferred accounting
12 fees:

13
14 According to MFR Schedule B-3, page 1, line 26, the utility has
15 proposed an increase of \$11,678 to other deferred expenses to
16 amortize the expenses incurred to restate 2007-2012 Annual
17 Reports. Please provide justification for the amount of the expense
18 incurred. Please state whether the Annual Report restatement was
19 solely for Florida Public Service Commission Annual Reports. In
20 addition, please provide all of the utility's calculations, basis,
21 workpapers, and documentation to support the adjustment,
22 including the amortization period.
23

24 The following response was provided by KW:

25
26 Milian, Swain & Associates, Inc., (MSA) was engaged to review
27 the utility's Annual Reports file subsequent to the prior rate case
28 to determine if CIAC, utility plant in service, and associated
29 amortization and depreciation was correctly stated on the Utility's
30 books, and if Annual Reports required revision. After review,
31 MSA recommended adjustments to the Utility's General Ledger,
32 and prepared revised Annual Reports to reflect the adjustments.
33 Because this work was not associated with a rate case, MSA
34 recommended that the costs not be included in rate case expense.
35 Although the costs were incurred during the test year, MSA
36 recommended that the cost not be included in the rate case as a

1 current year expense, but rather amortize it over a five-year period
2 to reflect a more reasonable period based upon its future benefit.
3

4 First, KW fails to explain how restating the Annual Reports provide any future
5 benefit to KW or its customers. Second, the staff audit workpapers show that the
6 amount incurred in 2014 was \$58,388, which was then divided by 5 years to equal
7 the Company's requested amortization expense of \$11,678. The auditors in Audit
8 Findings 6 and 11 recommended reclassifying deferred rate case expense of \$4,468
9 to the unamortized balance of deferred accounting fees, thus recommending an
10 unamortized balance of \$63,056, with an annual amortization expense of \$12,611.
11

12 **Q. DO YOU AGREE WITH THE UTILITY'S REQUEST TO RECOVER**
13 **THESE COSTS FROM THE RATEPAYERS?**

14 A. No, I do not. As I discussed previously in the Plant in Service section of my
15 testimony, the Utility failed to make the Commission-ordered adjustments from the
16 last rate case as it was required to do, and then subsequently incurred a substantial
17 expense in 2014 to bring its records into compliance with the Commission's Order
18 and the accounting requirements of the NARUC Uniform System of Accounts. I
19 would also note that, given the substantial number of adjustments that the Staff
20 Auditors recommended in this case, the detailed accounting analysis was not
21 sufficient to properly correct the Utility's books for accounting and ratemaking
22 purposes.
23

24 **Q. DO YOU RECOMMEND AN ADJUSTMENT FOR THE DEFERRED**
25 **ACCOUNTING FEES AND RELATED TEST YEAR AMORTIZATION?**

26 A. Yes, I do. The ratepayers should not have to pay for the accounting fees to correct
27 KW's books and records, when the Utility should have made these corrections as it

1 was ordered to do by the Commission after its last rate case. The fact that the Staff
2 Auditors have recommended substantial rate base and expense adjustments, even
3 after the Utility's costly analysis to restate its 2007-2012 Annual Reports, reflects
4 that the books and records have been poorly maintained. This extra expense for
5 outside accounting services is not a cost that is reasonable or prudent as the books
6 and records should have been correctly maintained.

7 Therefore, the ratepayers should not pay in future rates for costs to repair
8 the Utility's records when that should have been incurred annually since the last
9 rate case. Furthermore, none of the PSC annual reports have been actually refiled
10 or revised as of the date of this testimony. For these reasons, all of the accounting
11 costs related to restating the Utility's books and records subsequent to the last rate
12 case decision and prior to filing this current rate case should be disallowed.¹³ Since
13 the Utility did not make an adjustment to increase working capital for the
14 unamortized accounting fees, I have not made an adjustment to working capital,
15 only the \$11,678 reduction to O&M expenses.

16 **Q. WHAT AMOUNTS DO YOU BELIEVE SHOULD BE INCLUDED IN**
17 **DEFERRED DEBITS FOR UNAMORTIZED RATE CASE EXPENSE?**

18 A. One half of the amount of rate case expense approved by the Commission should
19 be allowed as a deferred debit. For purposes of my testimony, I am using half or
20 \$76,011 of the total rate case expense approved by the Commission in the PAA
21 Order of \$152,021. This amount should be adjusted based on the Commission's
22 final decision.

¹³ If the adjustment will be made to the PAA Order amount of working capital an adjustment should be made to remove the \$50,285 (\$63,056 less \$12,611) deferred costs from working capital and the amortization expense of \$12,611 should also be removed from O&M Expenses.

1 **Q. HAVE YOU MADE A CALCULATION OF THE AMOUNT OF WORKING**
2 **CAPITAL NEEDED FOR THE 2016 PRO FORMA TEST YEAR?**

3 A. Yes, I have. First, I compared the adjusted working capital balance for the 2014
4 Phase I rates to the actual 2015 working capital from the Utility's 2015 Annual
5 Report. I then averaged the 2014 average test year with the Utility's reported 2015
6 year-end balances. I included the same accounts and made adjustments to the 2015
7 amounts consistent with my recommendations for 2014. Second, I removed the
8 balance of cash included in Special Deposits of \$204,268, consistent with the
9 treatment in the PAA Order. I would note that the remaining balance of cash is
10 \$157,269, which is substantially lower than the balance the Company reported in
11 its 2014 test year MFRs and books. Third, I removed the balance of Miscellaneous
12 Current and Accrued Assets, similar to the PAA, to remove the utility deposits that
13 earn interest. Additionally, I included the Utility's 2015 reported balance of
14 deferred rate case expense of \$243,070. For comparison purposes, I have calculated
15 a year-end balance of 2015 working capital of \$321,939. Since the average and
16 year-end 2015 balances are so close to the 2014 recommended level of working
17 capital, I recommend that the Commission use the adjusted 2014 balance of
18 working capital for both Phase I and Phase II rates of \$328,976.

19
20 **Q. PLEASE DESCRIBE UTILITY WITNESS SWAIN'S DIRECT**
21 **TESTIMONY ON KW'S REQUESTED WORKING CAPITAL.**

22 A. Ms. Swain testified, on page 3, that KW's requested working capital of almost \$1.4
23 million is necessary based on the AWT operational expenses, the Last Stand
24 litigation, and the regulatory environment existing in the Florida Keys Area of
25 Critical Concern. She adds that after the pro forma adjustments are made, the

1 requested working capital is aligned with KW's 2014 test year needs. She then
2 states that the Utility's requested amount of working capital using the balance sheet
3 method, should not be similar to, or compared to the formula method or 1/8 of
4 O&M Expenses, nor would one expect working capital to be an amount similar to
5 a filing made years prior to the current test period. Lastly, she escalated the working
6 capital balance approved in the last case using customer growth and inflation of
7 172%, and then added the Last Stand Legal fees. She stated that her adjusted
8 benchmark threshold of \$1,732,532 was reasonable compared to the Utility's
9 requested working capital of \$1,367,232.

10

11 **Q. WHAT CONCERNS DO YOU HAVE WITH MS. SWAIN'S TESTIMONY**
12 **ON WORKING CAPITAL?**

13 A. First, the requested pro forma working capital is a completely inappropriate balance
14 for setting rates. It does not represent what actual working capital needs the Utility
15 is actually using as evidenced by the Utility's 2015 balance sheet. It also includes
16 the unamortized balance of the Last Stand legal fees, which I have capitalized to
17 CWIP in Phase I and capitalized to Plant in Service in Phase II. Further, the Utility
18 has not shown that it actually maintains working capital anywhere near the level it
19 has requested in its pro forma request. Furthermore, comparing the balance sheet
20 approach to the formula method is a tool that can be used to test the reasonableness
21 of the items included in the balance sheet calculation. However, I do agree that it
22 should not be the sole basis for reducing the amounts calculated using the balance
23 sheet approach. Moreover, Ms. Swain's benchmark comparison is completely
24 irrelevant to show what the Utility's working capital needs actually are or should
25 be. The balance sheet calculation of working capital should be based on the facts

1 supported by the Utility's actual and projected balance sheet components, with
2 consistent adjustments made based on the Commission's past practice. Lastly, the
3 Utility's 2015 Annual Report reflects a working capital balance of \$298,595. This
4 is much less than the amount reflected in the MFRs and it is also the year that the
5 Utility incurred the majority of its legal fees associated with the construction permit
6 litigation.

7 KW's assertions that an inflated working capital balance is necessary for
8 AWT operational expenses, the Last Stand litigation, and the regulatory
9 environment existing in the Florida Keys Area of Critical Concern are without
10 merit. AWT is included as part of O&M and not working capital. The Last Stand
11 litigation expense should be capitalized (as discussed above). If KW at some time
12 in the future is required to expend additional resources because the Florida Keys is
13 an Area of Critical Concern, it can submit a filing at that time.

14 **Q. WHAT IS THE TOTAL AMOUNT OF WORKING CAPITAL THAT YOU**
15 **ARE RECOMMENDING FOR PHASE I AND PHASE II REVENUE**
16 **CALCULATIONS?**

17 A. Based on my recommended adjustments as discussed above, the appropriate
18 amount of working capital for Phase I and Phase II should be \$328,976.

19
20 Rate Base

21 **Q. WHAT IS THE APPROPRIATE AMOUNT OF RATE BASE TO BE USED**
22 **IN SETTING PHASE I RATES?**

23 A. Based on my recommended adjustments, the appropriate rate base for establishing
24 Phase I rates should be \$127,237.

1

2 **Q. WHAT IS THE APPROPRIATE AMOUNT OF RATE BASE TO BE USED**
3 **IN SETTING PHASE II RATES?**

4 A. Based on testimony of OPC witness Woodcock, and my prior recommended
5 adjustments, the appropriate rate base for establishing Phase II rates should be
6 \$604,323.

7

8 **COST OF CAPITAL AND CAPITAL STRUCTURE**

9 **Q. PLEASE DESCRIBE THE UTILITY'S REQUESTED CAPITAL**
10 **STRUCTURE.**

11 A. The Utility's actual 2014 capital structure consists of \$395,434 of debt to BB&T at
12 an interest rate of prime plus .075%. For the test year, the requested interest rate
13 for this loan was 4%. The Utility also reflects an \$852,903 loan with an interest
14 rate of 6% from WS Utilities, which is an affiliate of KW. The capital structure
15 also contains \$162,972 in customer deposits with an interest rate of 2%. The Utility
16 reflected a negative equity balance of \$276,537. In its MFRs, the Utility made a
17 \$3.5 million pro forma adjustment to equity to reflect the equity provided to fund
18 the WWTP expansion.

19

20 **Q. ARE ADJUSTMENTS NECESSARY TO THE COST OF CAPITAL**
21 **REQUESTED BY THE COMPANY?**

22 A. Yes. In its PAA Order for Phase I, the Commission removed the Utility's pro forma
23 adjustment to Common Equity in the amount of \$3.5 million. The Order stated that
24 removing the Utility's adjustment resulted in a negative common equity balance.

1 Based on historical Commission practice,¹⁴ the Commission set the Utility's
2 common equity balance to zero for Phase I rates. Additionally, the Commission
3 reconciled rate base to capital structure on a pro rata basis over all sources of capital,
4 including customer deposits. I agree with and recommend all three of these
5 adjustments for Phase I rates.

6
7 **Q ARE ANY FURTHER ADJUSTMENTS NECESSARY TO THE CAPITAL**
8 **STRUCTURE?**

9 A. Yes. The affiliate debt interest rate should be equal to the interest rate of the loan
10 from BB&T. The Utility has not demonstrated why a higher interest rate charged
11 by an affiliate should be allowed above the rate that is part of an arms-length
12 transaction with a non-affiliate. The Commission's historically has stated that it is
13 the Utility's burden to show that its requested costs are reasonable.¹⁵ The Supreme
14 Court of Florida has also stated:

15 The mere fact that a utility is doing business with an affiliate does not
16 mean that unfair or excess profits are being generated, without more.
17 We believe the standard must be whether the transactions exceed the
18 going market rate or are otherwise inherently unfair.¹⁶
19

20 In this case, the Utility's affiliate debt cost exceeds the going market rate and thus,
21 I believe that it is inherently unfair. The cost of variable cost debt should be based
22 on the current cost when rates are in effect, especially since I am recommending a
23 pro forma 2016 test year. This is consistent with past Commission practice that
24 interest rates for debt be based on the interest rate when customer's rates are placed

¹⁴ Order No. PSC-08-0652-PAA-WS, issued October 6, 2008, in Docket No. 070722-WS, In re: Application for staff-assisted rate case in Palm Beach County by W.P. Utilities, Inc.

¹⁵ See Florida Power Corp. v. Cresse, 413 So. 2d 1187, 1191 (Fla. 1982).

¹⁶ See GTE Florida Incorporated v. Deason, 642 So.2d 545 (Fla. 1994).

1 into service. The current prime rate as of September 7, 2016, is 3.5%, based on the
2 Wall Street Journal Prime Rate. I have attached a copy of the Bankrate.com
3 webpage as Exhibit PWM-7. Since the BB&T loan is based on the prime rate of
4 interest plus 0.075%, this equates to a debt cost of 3.58%.

5

6 **Q. WHAT IS THE APPROPRIATE RETURN ON EQUITY FOR PHASE I AND**
7 **PHASE II RATES?**

8 A. In its PAA Order for Phase I rates, the Commission set the Utility's negative
9 common equity balance to zero but approved an equity return based on the current
10 leverage formula currently in effect.¹⁷ The resulting ROE was 11.16%, with an
11 allowed range of plus or minus 100 basis points. I concur that this ROE is the
12 appropriate ROE for Phases I and II.

13 **Q. WHAT IS THE APPROPRIATE OVERALL RATE OF RETURN FOR**
14 **PHASE I RATES?**

15 A. Based on my recommended adjustments, the appropriate overall rate of return for
16 Phase I rates should be 3.39%.

17

18 **Q. ARE YOU MAKING FURTHER ADJUSTMENTS TO THE COST OF**
19 **CAPITAL FOR PHASE II RATES?**

20 A. Yes. In the PAA Order, the Commission allowed the \$3.5 million pro forma
21 adjustment to equity to support the construction cost of the wastewater treatment
22 plant expansion. However, the Utility has not shown that it will, in fact, increase

¹⁷ Order No. PSC-15-0259-PAA-WS, issued July 2, 2015, in Docket No. 150006-WS, In re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4) (f), Florida Statutes.

1 equity for the construction of the plant. As of April 2016, the Utility had not
 2 reflected any increase in its equity account based on its general ledger.¹⁸ In
 3 response to Staff's Interrogatory 17, the Utility stated that WS Utilities, Inc., made
 4 infusions of equity for the pro forma WWTP expansion on the following dates:

5	Contributor	Date	Amount
6	WS Utilities, Inc.	5/6/2016	\$659,000.00
7	WS Utilities, Inc.	6/1/2016	\$852,903.05
8	WS Utilities, Inc.	8/25/2016	<u>\$530,000.00</u>
9	Total:		\$2,041,903.05

10 The Utility's timing in making these equity infusions raises questions, especially as
 11 to whether the infusions were made to debt or equity. Until such time that the
 12 Utility can meet its burden and produce documents demonstrating that it has infused
 13 any equity as opposed to debt into its capital structure, I recommend that debt be
 14 used to support the cost of any pro forma plant.

15 **Q. WHAT OVERALL RATE OF RETURN SHOULD BE USED IN SETTING**
 16 **PHASE II RATES?**

17 **A.** Based on my recommended adjustments, the appropriate overall rate of return for
 18 Phase II rates should be 3.53%.

19
 20 **NET OPERATING INCOME**

21 **Operating Revenues – Phase I**

22 **Q. DO YOU HAVE ANY ADJUSTMENTS TO MAKE TO TEST YEAR**
 23 **REVENUES FOR PHASE I RATES?**

24 **A.** Yes. The first adjustment I made was to remove the Utility's requested rate increase
 25 in order to determine the appropriate amount of test year revenues before any rate

¹⁸ Based on the Utility's general ledger provided in response to OPC's Production of Documents No. 8.

1 increase is considered. Second, in the PAA Order, the Commission increased test
2 year revenues by \$61,484, based on Staff Audit Finding 9. After reviewing all of
3 the Commission Staff workpapers and the PAA Order, I was unable to reconcile
4 this adjustment to the amount of test year revenues before any rate increase. I have
5 instead made the adjustments recommended by the Staff Auditors in Audit Finding
6 9 to Miscellaneous and Reuse Revenues. The auditors recommended increasing
7 Miscellaneous Revenues by \$61,899 and Reuse Revenues by \$1,152, for a total
8 increase of \$63,051. I agree with these adjustments.

9 Also, in the PAA Order, the Commission changed the 2014 billing
10 determinants to correct the Utility's erroneous billings for numerous customers.
11 When you change test year billing determinants, it is appropriate to change test year
12 revenues. I have recalculated test year revenues from service rates for residential
13 and general service customers based on the 2014 adjusted billing determinants per
14 the PAA Order. Based on this calculation, test year revenues should be further
15 decreased by \$21,629 based on the changed billing determinants. Based on this
16 adjustment, 2014 test year revenues for Phase I rates should be \$1,534,799.

17
18 Operating Revenues – Phase II

19 Revenue Growth Projections – Phase II

20 **Q. PLEASE DESCRIBE YOUR ADJUSTMENTS TO PHASE II TEST YEAR**
21 **REVENUES.**

22 **A.** First, consistent with my adjustments for Phase I, I have removed the Utility's
23 requested revenue increase of \$1,438,382. I then made the same adjustments I
24 recommended to Phase I Miscellaneous and Reuse Revenues (increase of \$63,052)
25 and the correction to the 2014 PAA Order adjusted billing determinants (decrease

1 of \$21,629). As I discuss below, I have made additional adjustments to reflect the
2 estimated growth in my 2016 pro forma test year revenues.

3

4 **Q. WHAT IS THE APPROPRIATE METHOD OF PROJECTING TEST YEAR**
5 **REVENUES FOR KW'S WASTEWATER SYSTEM TO BE USED IN**
6 **ESTABLISHING PHASE II RATES?**

7 A. Consistent with my adjustment to rate base and capital structure, it is appropriate
8 to increase test year revenues to the level that is estimated to exist the first year after
9 the wastewater treatment plant expansion is placed into service. For the reasons
10 discussed below, I have used a proxy method of projecting 2016 revenues. As
11 reflected in its 2015 Annual Report filed with the Commission, the Utility's
12 revenues from residential customers increased 2.6% and the general service
13 revenues increased 8.4% over the 2014 levels. In response to OPC Interrogatory
14 16, the Utility provided the actual 2015 and January to April 2016 billing reports,
15 which are entitled the "Base and Overage Reports." These reports reflect 31 billing
16 and customer classifications, many more than the tariffed classifications. While I
17 was able to review these records, the Utility had not corrected its billing system to
18 reflect the proper billing classes for the numerous customer classifications. In
19 OPC's Interrogatory 25a to KW, regarding Billing Determinants, the Utility was
20 asked:

21 a. Please provide a calculation of revenues at present rates using the
22 total bills and gallons by class of service and meter size as provided
23 by Minimum Filing Requirements (MFR) Schedule E-2 for 2015
24 and 2016 from January through June 30, 2016, for (1) the actual
25 billings made and (2) the corrected/revised billings as provided by
26 the Company to staff in its Schedule E-2 Revised in February 2016.

27

28 b. For the 2016 information, please provide the revenue impact for
29 each customer class and meter size calculation.

1
2 c. Please provide the requested information for (a) and (b) in an
3 electronic Excel spreadsheet with all values and formulas intact and
4 no cells protected. Also please provide a breakdown of how each
5 revision and/or correction of general service rate class was changed
6 from the billing method used by the utility to the revised method
7 required by the tariff and used by staff in its PAA recommendation.
8

9 KW's Response:

10 As to Interrogatory 25 (a), (b), and (c), KWRU objects to the
11 request as overly broad, unduly burdensome, and not reasonably
12 calculated to lead to the discovery of admissible evidence. KWRU
13 and its agents have not created such calculations, and the creation
14 of such calculations would require significant effort on the part of
15 KWRU's accountants and significant expenditures on the part of
16 KWRU. Further, the calculations may be performed by OPC,
17 should it so desire, with information already in OPC's possession.
18 These calculations do not bear upon the issues in this action, as
19 KWRU has not based any calculations or projections from these
20 non-existent calculations. In short, if OPC desires these
21 calculations, they have the necessary information and may
22 undertake the calculations themselves. As to Interrogatory 25 (d),
23 KWRU implemented new residential and general service rate
24 classifications per the PSC approved Tariffs, which are in OPC's
25 possession.
26

27 Thus, KW refused to restate the 2015 and 2016 billing determinants pursuant to the
28 tariffed required billing classes. Although the Utility states that the requested
29 information would not lead to the discovery of admissible evidence, I respectfully
30 disagree that OPC has the information necessary to restate the rate classification
31 corrections, due to the complexity and volume of changes that were made to
32 transfer the billing classifications from the Utility's billing records to the amount
33 adjusted by the Commission in the PAA Order.

34 KW also states that these calculations do not bear upon the issues in this
35 action, as it has not based any calculations or projections from these non-existent
36 calculations. It is clearly obvious that the Utility does not want the Commission to

1 look beyond the historical 2014 test year, except to add in the items that increase
2 its revenue requirement. Apparently, KW's position is that any adjustment that
3 would decrease the prospective revenue requirement or rates is inappropriate and
4 irrelevant.

5 As I testified earlier, it is the Utility's burden to prove that its requested
6 costs are prudent and reasonable. The same applies to revenues as well. It is very
7 apparent that billing determinants have increased in 2015 above the 2014 levels by
8 just reviewing the 2015 Annual Report, which I have attached as Exhibit PWM-7.
9 On Schedule F-3a on the 2015 Annual Report, KW reports that its 2015 revenues
10 were \$1,659,247, compared to its 2014 revenues of \$1,479,307, which
11 demonstrates an increase of \$179,940 or 12%. On page F-4, which is the Utility's
12 Rate Base, the Utility reflects an achieved rate of return of 16.19%. To put this in
13 perspective, KW's reported cost of capital for the Annual Report was 7.25%, even
14 though it is not consistent with the calculations made by the Commission in the
15 PAA Order. As discussed earlier, KW collected \$310,187 in additional CIAC in
16 2015. Evidently, the financial picture of KW is much better in 2015 and will most
17 likely be better in 2016; however, the Utility does not believe that these offsets to
18 the revenue requirement are relevant. To attempt to place the burden on OPC or
19 any other party is clearly inappropriate. Further, the Utility has not provided any
20 reliable projections to reflect the future customer growth after the new plant comes
21 online.

22
23 **Q. GIVEN THE COMPLEXITY OF THE ADJUSTMENTS AND BILLING**
24 **ERRORS AND THE LACK OF INFORMATION AVAILABLE TO**
25 **CORRECTLY STATE THE ACTUAL 2015 AND 2016 BILLING**

1 **DETERMINANTS, WHAT ADJUSTMENTS SHOULD BE MADE TO**
2 **CUSTOMER BILLING DETERMINANTS?**

3 **A.** Since the Utility failed to provide the actual corrected billing determinants for 2015
4 and 2016, I have used a proxy method of projecting 2016 consumption levels. I
5 have matched the projected 5% annual increase in consumption and ERCs used by
6 OPC witness Woodcock to determine the growth in test year flows for 2015 and
7 2016 to reflect my pro forma 2016 test year. In the Burkim docket cited previously,
8 the Commission updated the projected bills and consumption in setting rates based
9 on an historical, audited period with two years of projections.¹⁹ Mr. Woodcock's
10 recommended annual increase is 222 ERCs, which was limited to 5% customer
11 growth per year. I would note that this is a conservative adjustment, as the Utility's
12 requested growth factor is 7.06% per year.

13 **Q.** **PLEASE EXPLAIN HOW YOU APPLIED THE GROWTH FACTOR TO**
14 **THE 2014 ADJUSTED BILLING DETERMINANTS.**

15 **A.** I took the 2014 number of bills and gallons of wastewater gallons billed as used in
16 the PAA Order and multiplied all of those by 10%, which represents 5% per year.
17 For simplicity purposes, I did not escalate, or compound the 2015 factor by 5%,
18 which would have generated a 10.25% factor.

19
20 **Q.** **WHAT ADJUSTMENT DO YOU RECOMMEND FOR CUSTOMER**
21 **GROWTH AS A RESULT OF YOUR PROJECTION OF ADDITIONAL**
22 **BILLS AND GALLONS FOR 2016?**

¹⁹ See Order No. PSC-01-2511-PAA-WS, page 52, issued December 24, 2001, in Docket No. 010396-WS, In re: Application for staff assisted rate case in Brevard County by Burkim Enterprises, Inc.

1 A. Using my adjusted billing determinants, the appropriate adjustment is an increase
2 of \$141,178 to 2016 test year revenues. My calculations are reflected on Schedule
3 4-B as part of my Exhibit PWM-3 for the 2016 pro forma test year.

4

5 **Q. IF THERE IS RELIABLE EVIDENCE THAT THE NUMBER OF**
6 **CUSTOMERS AND GALLONS BILLED BY KW WILL LIKELY BE**
7 **GREATER IN 2017 THAN YOU HAVE PROJECTED IN 2016, SHOULD**
8 **THE COMMISSION TAKE THAT EVIDENCE INTO ACCOUNT WHEN**
9 **SETTING KW'S RATES IN THIS CASE?**

10 A. Yes, I believe that if reliable evidence is presented in the record which shows that
11 KW's growth will exceed the level that I have projected, the Commission should
12 consider that evidence and update my recommended billing determinants.

13

14 **Q. WHAT DOES THE PAA ORDER STATE ABOUT THE UTILITY'S**
15 **FAILURE TO BILL BASED ON ITS APPROVED TARIFFS?**

16 A. The PAA Order stated that the Utility's billing practice for several general service
17 customers is inconsistent with its approved tariff, and that Staff would address
18 whether the Utility should be ordered to 'show cause' why it should not be fined
19 for charging rates that are inconsistent with its tariff in a subsequent proceeding.

20 The PAA Order gave the following examples:

- 21 • Safe Harbor Marina is billed a negotiated rate, rather than the
22 approved bulk flat rate.
- 23 • Sunset Marina is billed base facility charges (BFCs) based on
24 an 8" and a 2" meter, the Utility's approved gallonage charge
25 based on water demand, the approved charge for two pools, as
26 well as an additional 64 BFCs based on the number of units
27 behind the meter.
- 28 • Marinas with 2" meters are billed based on an approved bulk
29 flat rate that includes BFCs for a 2" meter and six residential
30 units, as well as a gallonage charge that was erroneously added

- 1 to the bulk rate tariff as a result of an administrative approval
 2 of a 2011 price index.
- 3 • One general service customer with a 6" meter is billed the BFC
 - 4 for a 5/8"x3/4" meter for each of the 103 units.
 - 5 • Another general service customer with a 5/8"x3/4" meter is
 - 6 billed the BFC for a 5/8"x3/4" meter for 49 units.
 - 7

8 **Q. PLEASE STATE THE STATUTORY AND RULE REQUIREMENTS THAT**
 9 **ADDRESS CUSTOMER BILLING AND REFUND REQUIREMENTS.**

- 10 A. According to Section 367.091(4), Florida Statutes, "A utility may only impose and
 11 collect those rates and charges approved by the commission for the particular class
 12 of service involved. A change in any rate schedule may not be made without
 13 commission approval." Rule 25-30.350(2), F.A.C., states that "In the event of an
 14 overbilling, the utility shall refund the overcharge to the customer based on
 15 available records. If the commencement date of the overbilling cannot be
 16 determined, then an estimate of the overbilling shall be made based on the
 17 customer's past consumption."

18 Commission Staff sent a letter dated February 18, 2016, to KW requesting
 19 the Utility to provide a response by March 21, 2016, describing when and under
 20 what circumstances each outlined violation occurred and the Utility's plan to correct
 21 the billing errors. By letter dated March 21, 2016, the Utility sent a 6 page response,
 22 with 22 pages of documents attached. OPC agrees that the issues are very complex
 23 and it does not appear that the Utility agreed that any amounts should be refunded.
 24 It also appears that the Utility believes that communication with the Commission
 25 staff is tantamount to "approval by the Commission." It is not the Commission
 26 Staff's obligation to seek approval of a tariff and communicating with Staff
 27 definitely does not grant approval unless specifically authorized by the Commission
 28 by statute, rule, or order.

1

2 **Q. DO YOU HAVE A RECOMMENDATION ON WHAT ACTION THE**
3 **COMMISSION SHOULD TAKE REGARDING THE UTILITY'S FAILURE**
4 **TO BILL BASED ON ITS APPROVED TARIFFS?**

5 A. Yes, I recommend that a full audit and investigation be initiated by the Commission
6 to determine whether and how much of the revenues billed were based on
7 unapproved, thus improper, erroneous billing classifications, and how much these,
8 and potentially other improperly billed customers are owed in refunds.

9

10 Miscellaneous Revenues

11 **Q. DO YOU RECOMMEND ANY ADJUSTMENTS TO PROJECT 2016**
12 **MISCELLANEOUS SERVICE REVENUES?**

13 A. Yes, I do. I have used the actual 2015 miscellaneous revenues from the Utility's
14 Annual Report; however, I made several adjustments to those amounts. First, I
15 made the same adjustments to miscellaneous service charges that I made to Phase
16 I rates based on Audit Finding 9. I then obtained the 2015 miscellaneous service
17 charges from the Utility's General Ledger as of December 31, 2015, provided in
18 KW's response to OPC's Document Request 8. The miscellaneous revenues
19 totaled \$104,651, not including reuse revenues. In its PAA Order, the Commission
20 discontinued the tariff for revenues received from the reuse testing charge to the
21 Monroe County Detention Center (MCDC), as the testing costs would be included
22 in the increased reuse rate. I agree with the Commission's discontinuation of this
23 tariff, so I have removed the \$19,500 received for reuse testing from 2015
24 miscellaneous revenues. I also adjusted the amount of the MCDC Lift Station
25 Cleaning Income to match the tariff rate approved in the PAA Order. This results

1 in a decrease of \$2,006 to miscellaneous revenues. I then escalated the remaining
2 miscellaneous service revenue accounts by 5%, an increase of \$3,276, which is
3 consistent with the other escalation factors that I have used in my pro forma 2016
4 Phase II rate projections. The net result of my 2016 adjustments increase the
5 adjusted miscellaneous revenues by \$13,802. My calculations are reflected in
6 Exhibit PWM-3, Schedule 3-C.

7
8 Reuse Revenues

9 **Q. HAVE YOU MADE AN ADJUSTMENT TO REUSE REVENUES FOR THE**
10 **2016 PRO FORMA TEST YEAR?**

11 A. Yes, I have. In the historical 2014 test year, the utility received revenues of \$49,248
12 from the MCDC for 72,423 thousand gallons of reuse provided. In 2015, the Utility
13 received \$58,188 in revenues, for 85,571 thousand gallons of reuse. The increase
14 in 2015 reuse gallons sold was an increase of 18% from the 2014 levels. I increased
15 the gallons sold for 2016 by an additional 5% consistent with my 2016 projection
16 factors. This results in a 2016 projected level of reuse revenues at the current rate
17 of \$0.68 per thousand gallons of \$61,098, or an increase of \$10,697 to the historical
18 test year. As discussed later in my testimony, I address the appropriate prospective
19 reuse rate to be charged. My reuse revenue calculations are also reflected in Exhibit
20 PWM-3, Schedule 3-C.

21
22 Total Test Year Revenues – Phase II Rates

23 **Q. WHAT IS YOUR ADJUSTED AMOUNT OF TEST YEAR REVENUES FOR**
24 **THE 2016 PRO FORMA TEST YEAR?**

1 A. Based on the adjustments that I discuss above, the appropriate amount of test year
2 revenues for setting Phase II rates is \$1,701,630.

3

4 Operating Expenses

5 O&M Expenses

6 **Q. DO YOU AGREE WITH THE AUDIT FINDINGS RELATED TO O&M**
7 **EXPENSES?**

8 A. No, I do not. As I discussed previously, I agree with some but not all of the agreed-
9 upon audit adjustments. Audit Finding 3 relates to the reclassification of survey
10 fees to O&M Expenses, which results in an increase of \$1,200 to Contractual
11 Services-Other. I reduced O&M Expenses based on Audit Finding 10 regarding
12 the removal of non-utility, duplicative, out-of-period costs and undocumented
13 expenses of \$4,512.

14

15 **Q. ARE YOU RECOMMENDING ANY ADJUSTMENTS TO EXPENSES**
16 **ASSOCIATED WITH AUDIT FINDINGS 6 AND 11?**

17 A. As I previously testified in the Deferred Debit section of my testimony, I do not
18 agree with the agreed-upon adjustment made in the PAA Order regarding Audit
19 Finding 6, which relates to the amortization of Accounting Fees to "Restate the
20 2007-2012 Annual Reports." Since both of the expense impacts recommended by
21 the Staff Auditors relates to items that I have accounted for differently, neither of
22 the two expense adjustments related to Audit Finding 6 are appropriate to be made.
23 I do agree with making the adjustment in Audit Finding 11 regarding expenses for
24 Legal Fees relating to the Last Stand litigation that the auditors believe should be

1 deferred and amortized, as these amounts should not be included in the test year
2 O&M expenses.

3

4 **Q. WHAT ADJUSTMENT TO O&M EXPENSES ARE YOU MAKING TO**
5 **REMOVE THE REQUESTED AMORTIZATION OF ACCOUNTING FEES**
6 **TO CORRECT ITS BOOKS AND RECORDS?**

7 A. As addressed in the Working Capital section of my testimony, I removed the
8 Utility's requested amortization expense of \$11,678 for correcting its books and
9 records to comply with the Commission's Order in KW's last rate case and the
10 Uniform System of Accounts to which the Utility referred to as "restating the 2007-
11 2012 Annual Reports." Since, I have not made any of the agreed-upon adjustments
12 from Audit Finding 6, it is not necessary to remove the PAA Order's amortization
13 amount.

14

15 **Q. DO YOU AGREE WITH THE PAA ORDER ADJUSTMENT TO**
16 **CONTRACTUAL SERVICES-ACCOUNTING?**

17 A. Yes. In its MFRs, KW included a \$12,350 pro forma adjustment for additional
18 accounting services, not related to the correction of its books and records. In its
19 response to Staff's first data request No. 2,²⁰ the Utility stated that the \$12,350
20 adjustment was based on an additional hour of bookkeeping for 49.5 weeks at an
21 hourly rate of \$250 an hour due to the increase in transactions related to accounts
22 payable, cash disbursements, and customer service. The PAA Order states the \$250
23 is based on the hourly rate charged by the Utility's accountant, Mr. Jeffrey Allen
24 CPA, for additional work not included in his fixed-rate \$525 monthly service fee;

²⁰ See Exhibit CAJ-4 Page 2

1 however, no explanation was specified for using 49.5 weeks. In its response to
2 Staff's first data request, the Utility indicated that the increase in the expense for
3 December 2014 was due to Mr. Allen performing fourth quarter accounting work
4 in place of the Utility's in-house accountant who had resigned. The Commission
5 stated that this position was filled in 2015; therefore, the additional work performed
6 in the test year did not warrant an adjustment to increase accounting fees on a going-
7 forward basis. Additionally, the PAA Order stated the Utility indicated that the
8 increase in wastewater treated would not increase the prospective amount of
9 transactions relative to the amount of flows received. Based on the above, I concur
10 with the Commission's decision to disallow the \$12,350 pro forma contractual
11 services-accounting adjustment for Phase I and Phase II rate setting purposes.

12

13 Contractual Services-Engineering

14 **Q. DO YOU AGREE WITH THE ADJUSTMENT IN THE PAA ORDER FOR**
15 **CONTRACTUAL SERVICES-ENGINEERING?**

16 A. Yes. I agree that this adjustment is appropriate to correct expenses for an invoice
17 that was capitalized. Contractual services-engineering expense should be
18 decreased by \$653.

19

20 Contractual Services-Management Fee

21 **Q DO YOU AGREE WITH THE COMMISSION'S ADJUSTMENT TO KW'S**
22 **TEST YEAR EXPENSES FOR MANAGEMENT FEES CHARGED BY**
23 **GREEN FAIRWAYS?**

24 A. Yes. I agree that the majority of the management duties provided by Green
25 Fairways is duplicative of the in-house officers and management the Utility has

1 hired since its last rate case. The PAA Order also states the Utility explained that
2 Mr. William Smith personally guaranteed loans to KW, and that his management
3 fees are reasonable compared to those charged by most lenders. KW further
4 explained that WS Utilities, as the sole shareholder and largest creditor, requires
5 outside management to review KW's operations and to ensure that all debts are
6 properly paid and that no security is jeopardized or personal guaranty is put at risk.
7 The Commission properly found that these services primarily benefit Mr. Smith as
8 a shareholder. Finally the PAA Order states, and I agree, that Green Fairways does
9 not provide true, independent third party oversight, as two related-party individuals
10 are providing the services. Therefore, I concur with the Commission's decision to
11 remove the affiliate transaction as not being necessary for the provision of regulated
12 utility service. Thus, I recommend that contractual services-management expense
13 be decreased by \$60,000 for both Phase I and Phase II rates.

14 Legal Fees Associated with Construction Permit Litigation

15 **Q. WHAT ADJUSTMENT IS APPROPRIATE FOR THE LEGAL AND**
16 **CONSULTING FEES THAT THE UTILITY INCURRED TO DEFEND ITS**
17 **CONSTRUCTION PERMIT WITH DEP FOR THE WASTEWATER**
18 **TREATMENT PLANT EXPANSION?**

19 **A.** As discussed earlier in my testimony, the legal and engineering fees associated with
20 the construction permit should be capitalized to CWIP and not deferred and
21 amortized over 5 years as requested by the Utility. These costs clearly were
22 incurred to obtain the construction permit and are required to be capitalized
23 according to the NARUC Uniform System of Accounts. In its filing, the Utility
24 requested total fees of \$519,585 to be amortized over 5 years for an annual

1 amortization expense of \$103,917. For Phase I, I have added the amounts to CWIP
 2 and for Phase II rates, I have capitalized these fees to Treatment and Disposal Plant.
 3 Accordingly, I have removed the Utility's requested amortization of \$103,917 from
 4 both Phase I and Phase II O&M Expenses.

5

6 Pro Forma Expense Adjustments – Phase I

7 **Q. PLEASE ADDRESS THE UTILITY'S PRO FORMA O&M EXPENSES**
 8 **FOR PHASE I RATES?**

9 A. The Phase I O&M Expenses requested by the Utility and approved by the
 10 Commission severely overstated the expenses for Phase I level of service. The
 11 biggest problem with the Phase I level of expenses is that the Utility requested pro
 12 forma adjustments for service levels at least a year after the new treatment plant
 13 will be placed into service. If you look at the actual levels of expenses incurred in
 14 2015 and for the January through April 2016 timeframe, it is evident that the Utility
 15 is not spending near the amount of expenses that the Commission approved for
 16 Phase I even though the Utility was required to implement AWT in January 2016.
 17 This is particularly evident when you look at chemicals, purchased power and
 18 sludge hauling expenses, as demonstrated below:

<u>Account Title</u>	<u>2014</u>	<u>2015</u>	<u>Annualized 2016</u>	<u>PAA Order Phase I & II</u>
Sludge Removal Expense	\$39,394	\$36,777	\$130,925	\$148,728
Purchased Power	\$146,711	\$145,781	\$181,726	\$189,611
Chemicals	\$32,330	\$89,146	\$183,152	\$257,071

19

20 In its PAA Order on page 13, the Commission stated the following under the
 21 heading "Changes in Operation and Maintenance (O&M) Expenses Due to AWT
 22 Upgrade":

1 The Utility requested pro forma expenses associated with
2 upgrading its operations to meet Advanced Wastewater Treatment
3 (AWT) Standards required by Section 403.087(10), F.S., with a
4 deadline of January 1, 2016. Section 367.081, F.S., provides that
5 we approve rates for service which allow a utility to recover the full
6 amount of environmental compliance costs. Recognizing that the
7 requested expenses are needed for compliance with the Utility's
8 DEP Permit, KW Resort shall be permitted recovery of reasonable
9 and prudent expenses associated with the AWT upgrade.

10
11 In its filing, the Utility requested a total of \$666,134 of pro forma
12 O&M expense for estimated increases in the following expenses:
13 salaries and wages, employee pension and benefits, general liability
14 insurance, workmen's comp insurance, sludge disposal, purchased
15 power, chemicals, materials and supplies, contractual services-
16 engineer, contractual services-testing, contractual services-other,
17 and miscellaneous. As addressed below, this request was
18 subsequently increased to \$708,511. In addition, the Utility
19 requested a corresponding pro forma increase of \$13,526 to payroll
20 taxes. We find the following adjustments are appropriate.
21

22 **Q. DOES IT APPEAR THAT THE COMMISSION WAS AWARE THAT THE**
23 **REQUESTED LEVEL OF EXPENSES WAS NOT JUST FOR**
24 **IMPLEMENTING AWT ON ITS EXISTING TREATMENT PLANT?**

25 **A.** No, it does not appear that the Commission or its Staff understood that the majority
26 of the pro forma expenses requested were based on treatment and expense levels
27 much higher than those in the current test year, as the Order only stated that the pro
28 forma expenses were needed to implement AWT. In response to Staff Audit
29 Request 5, which is Exhibit PWM-5 attached to my testimony, the majority of the
30 adjustments projected the expense levels for the treatment plant operations out to
31 2016 after the treatment plant expansion was online and operating for at least a
32 year. The Utility did not provide this information in its direct testimony that was
33 filed in this docket. As shown on page 2 of the exhibit, the calculation of salaries
34 is projected out to 2015 and 2016. Page 4 reflects sludge hauling estimates for 2016

1 when the expansion is operational. Page 6 reflects purchased power for a full 2016
2 level. Pages 7-12 estimate chemical expenses based on 550,000 GPD, and page 13
3 reflects the Utility engineer's annual estimate for testing after the plant expansion
4 is in service. Based on this exhibit, it is clear that the majority of the O&M expenses
5 for the pro forma adjustments reflect the annual operational level when the
6 expansion is in service and does not reflect the level of pro forma expenses for
7 implementing AWT for its existing plant.

8
9 **Q. DO YOU AGREE THAT SOME LEVEL OF PRO FORMA ADJUSTMENT**
10 **IS NECESSARY FOR PHASE I RATES TO IMPLEMENT AWT ON THE**
11 **EXISTING PLANT?**

12 A. Yes, I do. While I do not have an estimate provided by the Utility for AWT on its
13 existing plant, I can make a reasonable estimate based on the actual results from
14 2016 that the Utility has provided. Phase I O&M expenses should be no more than
15 the actual annualized levels incurred for 2016. The Utility provided the January to
16 April 2016 level of operating expenses and those expenses totaled \$237,762. I
17 multiplied the majority of the expense accounts by 3 to reflect a full year of
18 expenses. For chemicals, purchased power and sludge hauling expenses, I
19 multiplied the first four months by 3.25 instead of 3 to recognize that the flows
20 generally increase in the last quarter of the year. I then made several adjustments
21 to my annualized 2016 amounts. First, I made all of my adjustments that I
22 recommend to O&M expenses for the agreed-upon adjustment. I then removed the
23 \$60,000 management fee for the affiliate services that are not necessary or
24 supported. I also added back in the rate case expense that the Commission approved
25 in the PAA Order.

1 The last adjustment I made was to correct the general liability insurance
2 annualization that was based on an overstated amount in the general ledger. In
3 response to Staff's Interrogatory 16, the Utility stated that the general liability
4 insurance for KW's expense through April 2016 was originally reported as \$28,657,
5 which when annualized totaled \$85,971. The utility later reviewed the entry to that
6 account, and corrected the general ledger. The corrected amount through April
7 2016 is \$13,729, or \$41,187 annualized. I have adjusted the annualized general
8 liability insurance to the corrected amount.

9 Attached to my testimony is Schedule 3-C from Exhibit PWM-2, which
10 shows my recommended level of 2014 adjusted O&M expenses which totals
11 \$1,546,872. Thus, a further reduction to Phase I O&M Expenses of \$301,461
12 should be made. It should be noted that this is higher than the actual 2015 O&M
13 expenses of \$1,402,438, as reflected in the Utility's 2015 Annual Report. I would
14 not recommend any higher levels of O&M expenses for Phase I, even including
15 additional direct expenses associated with AWT, unless the Utility can meet its
16 burden of proof and document that it is in fact incurring more than the annualized
17 costs that I have calculated for 2016.

18

19 **Q DO YOU HAVE ANY OTHER COMMENTS REGARDING THE**
20 **UTILITY'S REQUESTED PRO FORMA EXPENSES FOR PHASE I?**

21 A. Yes. In its last rate case, KW requested and the Commission approved increased
22 O&M expenses (with few adjustments) to allow the Utility to implement AWT
23 starting in 2008. We know now that the Utility did not implement AWT on its
24 existing plant until a few months before January 1, 2016. Thus, the Commission
25 included significantly higher chemical, purchased power and sludge hauling

1 expenses in the last rate case, which the Utility never incurred, yet ratepayers paid
2 for. While I am not asking the Commission to take any action on this, it should be
3 noted that the Utility again has requested higher O&M expenses to “implement
4 AWT” in this case, which we now know is not the level needed in Phase I rates.

5
6 Rate Case Expense

7 **Q. DO YOU HAVE A RECOMMENDATION REGARDING RATE CASE**
8 **EXPENSE IN SETTING PHASE I AND PHASE II RATES?**

9 A. Yes. For purposes of my accounting schedules, I included the rate case expense
10 amortization that the Commission approved in the PAA Order. Thus, the rate case
11 expense adjustments and the total amount approved by the PAA Order are
12 appropriate for setting Phase I and Phase II rates. I will address below the major
13 adjustments that the Commission approved. In addition, the final amount should
14 be based on supported estimates for taking the case to hearing.

15
16 **Q. WHAT ADJUSTMENTS ARE APPROPRIATE FOR LEGAL FEES?**

17 A. Legal fees should be reduced to remove the filing fees, costs incurred to submit and
18 address deficiencies in the MFRs, and a reasonable estimate to complete. Also, it
19 is not appropriate for the Utility to seek reimbursement from its ratepayers to have
20 two attorneys reviewing the same work product. I agree with the PAA Order that
21 any duplication in legal fees incurred by having two law firms working on the rate
22 case should be disallowed. Further, it is the Utility’s burden to show that the legal
23 fees incurred are not duplicative. Customers should not pay double the rate case
24 expense to have two attorneys review a data request, a discovery response, attend a
25 conference call with staff, attend the prehearing conference, or pay for hours

1 associated with “researching” different Commission functions such as the PAA
2 process. The Utility has retained experienced counsel and customers should not
3 pay additional rate case expense for another attorney, at a higher hourly rate, to
4 learn Commission processes, especially when that attorney is affiliated with the
5 Utility. Therefore, rate case expense should be adjusted accordingly to remove
6 duplicative legal fees.

7
8 **Q. WHAT ADJUSTMENTS ARE APPROPRIATE TO ACCOUNTING**
9 **CONSULTING FEES?**

10 A. The PAA Order made adjustments to accounting fees to remove duplicate filing
11 costs to correct MFR deficiencies, to reflect a reasonable level of estimated hours
12 to complete the case, and to remove duplicative, unsupported, and other accounting
13 invoices not related to rate case expense. I concur that these adjustments are
14 reasonable and should be made. I also recommend that the Commission carefully
15 review the accounting rate case expense invoices to determine whether the Utility’s
16 inadequate record keeping has increased the amount of accounting work performed
17 to prepare the MFRs, address audit findings and respond to discovery, thus
18 increasing rate case expense. Any rate case expense related to bringing the Utility’s
19 books into compliance included in rate case expense should be disallowed.

20
21 **Q. DID THE COMMISSION MAKE ADJUSTMENTS TO MISCELLANEOUS**
22 **RATE CASE EXPENSE?**

23 A. Yes, it made adjustments to reflect a reasonable cost for customer notices, printing
24 and shipping, and rate case travel expenses. I also agree with these adjustments.

25

1 **Q** **BASED ON THE ADJUSTMENTS ABOVE, WHAT AMOUNT OF RATE**
2 **CASE EXPENSE HAVE YOU INCLUDED?**

3 A. Based upon the adjustments discussed above, the Commission approved rate case
4 expense of \$152,021. Amortized over 4 years, this equates to an annual expense of
5 \$38,005. The Utility's requested rate case expense should be increased by \$6,805
6 (\$38,005 - \$31,200).

7

8 Phase II O&M Expenses

9 **Q. ARE YOU MAKING SIMILAR ADJUSTMENTS TO PHASE II O&M**
10 **EXPENSES THAT YOU MADE TO PHASE I?**

11 A. Yes, I am making the same adjustments for the agreed-upon audit adjustments,
12 contractual services-accounting, contractual services-engineering, management
13 fees, and rate case expense. I am also recommending the removal of the
14 amortization of legal fees for the permit litigation fees incurred which should be
15 capitalized, and I remove the amortization of accounting fees to correct the Utility's
16 books and records for 2007-2011. Additionally, I agree that the reduction to pro
17 forma expenses made by the Commission of \$10,028 is appropriate for Phase II
18 rates.

19

20 Pro Forma Expenses-Phase II

21 **Q. WHAT ADDITIONAL ADJUSTMENTS TO THE UTILITY'S**
22 **REQUESTED PRO FORMA EXPENSES DO YOU BELIEVE ARE**
23 **APPROPRIATE FOR PHASE II RATES?**

24 A. Additional adjustments are needed to the pro forma expenses for Sludge Removal,
25 Purchased Power, Chemicals, and Material and Supplies Expenses. The pro forma

1 adjustments for those accounts are based on consumption levels that exceed the
 2 level recommended by OPC witness Woodcock's engineering analysis and growth
 3 for the first year that the new plant expansion will be placed into service. Mr.
 4 Woodcock recommends that the projected 2016 treatment level will be 507,370
 5 gallons per day (gpd). The Utility has calculated its projected level of expenses
 6 based on a consumption level of 550,000 gpd. I have reduced those 4 accounts,
 7 which are directly impacted by the amount of flows treated, by 7.75%.
 8 (42,630/550,000 gpd). This results in a decrease of \$29,223 to O&M Expenses.

9 **Q. HAVE YOU REVIEWED UTILITY WITNESS SWAIN'S ADDITIONAL**
 10 **O&M EXPENSE ADJUSTMENTS THAT WERE INCLUDED IN HER**
 11 **DIRECT TESTIMONY?**

12 A. Yes, I have. In Ms. Swain's Exhibit DDS-2, page 5 of 11, attached to her direct
 13 testimony, she shows that KW increased O&M Expenses by \$224,501, for a total
 14 pro forma O&M Expense adjustment of \$1,085,543. The adjustments to each
 15 account are listed below:

701 Salaries & Wages – All	\$14,640
704 Employee Pensions & Benefits	\$18,413
715 Purchased Power	\$38,264
718 Chemicals	\$32,330
720 Materials & Supplies	\$31,502
757 Insurance - General Liability	\$47,271
766 Reg. Comm. Exp. - Rate Case Amort.	\$60,657
775 Miscellaneous Expenses	<u>\$2,424</u>
Total	<u>\$245,501</u>

17
 18 I disagree with those pro forma expenses for many reasons. First, all of these
 19 expenses are in addition to the more than \$840,000 in pro forma adjustments

1 requested in the MFRs and were not included in KW's original rate case filing. To
2 increase projected expenses by almost a quarter of a million dollars, with no
3 justification and after the Intervenors' protest was filed, is completely inappropriate
4 and unjustified. Second, the Utility has not provided any documentation with its
5 testimony that shows how these amounts were calculated or what changes occurred
6 to necessitate such a large increase above those included in the MFRs. These
7 additional costs are a transparent attempt to bolster the Utility's request for a rate
8 increase. Further, the Utility has utterly failed to identify any known and
9 measurable changes that have occurred subsequent to the test year, which would
10 require these additional costs to be included in the revenue requirement, as I outline
11 in great detail in my testimony. Finally, the breakdown of the increase in individual
12 expense accounts totals \$245,501. This is an unexplained difference from her total
13 increase to O&M Expenses of \$20,960. This requested increase in O&M Expenses
14 should be completely disallowed.

15
16 O&M Expense Summary

17 **Q. WHAT IS THE TOTAL RECOMMENDED LEVEL OF O&M EXPENSES**
18 **THAT YOU ARE RECOMMENDING FOR PHASE I AND PHASE II**
19 **RATES?**

20 **A.** Based on the adjustments outlined in my testimony, I am recommending O&M
21 Expenses of \$1,546,872 for Phase I and \$1,809,082 for Phase II. The schedules
22 supporting the Phase I and II O&M expenses are Exhibits PWM-2, Schedule 2-A
23 and PWM-3, on Schedules 2-A, respectively.

24

1 Depreciation Expense

2 **Q. WHAT ADJUSTMENTS DO YOU RECOMMEND TO DEPRECIATION**
3 **EXPENSE TO BE USED IN SETTING PHASE I RATES?**

4 A. Consistent with my recommendations to Accumulated Depreciation and
5 Accumulated Amortization of CIAC, I have increased Amortization of CIAC by
6 \$14,003 for Audit Finding 4; I have decreased Depreciation Expense by \$5,489 for
7 Audit Finding 5; I have removed the requested pro forma Depreciation Expense for
8 the wastewater treatment plant expansion by \$196,281 and I have removed the
9 Utility's adjustment to reflect the year-end annualization of Depreciation Expense,
10 which is a reduction of \$4,384. Based on these adjustments, Net Depreciation
11 Expense should be \$104,511 for Phase I rates.

12 **Q. WHAT ADJUSTMENTS DO YOU RECOMMEND TO DEPRECIATION**
13 **EXPENSE TO BE USED IN SETTING PHASE II RATES?**

14 A. Consistent with my recommendations to Phase I Depreciation Expense and
15 Amortization of CIAC Expense, I first increase Amortization of CIAC by \$14,003
16 for Audit Finding 4. Second, I decrease Depreciation Expense by \$5,489 for Audit
17 Finding 5. The third adjustment I make increases the 2014 depreciation expense
18 by \$13,718 to reflect the 2014 year-end balance. Fourth, I add the additional
19 amount of depreciation expense on the WWTP expansion projected costs including
20 the capitalized legal fees for the permit litigation. This results in an increase to
21 depreciation expense of \$67,026 above the Utility's requested pro forma
22 depreciation expense in its MFRs. The fifth and sixth adjustments relate to the
23 vacuum tank depreciation expense and the adjustment to remove the related
24 retirement. Those adjustments to depreciation expense are an increase of \$26,385

1 and a decrease of \$19,789, respectively. For clarity, I made specific adjustments
2 for the WWTP expansion and the vacuum tank replacement, and did not net the
3 adjustments, as was done in the PAA Order.

4
5 **Q. HAVE YOU MADE ADDITIONAL ADJUSTMENTS TO AMORTIZATION**
6 **OF CIAC?**

7 A. Yes. Consistent with the adjustments to CIAC, I first increase the average 2014
8 balance of Amortization of CIAC by \$4,746 to reflect a year-end balance, similar
9 to depreciation expense. Second, I add amortization of \$17,079 for the 2015 and
10 2016 actual additions to CIAC. The third adjustment I make is to reflect the
11 amortization of \$15,421 on the additional 2016 CIAC I project will be collected
12 during the first year of operations of the WWTP expansion.

13 **Q. WHAT NON-USED AND USEFUL ADJUSTMENT IS NECESSARY TO**
14 **DEPRECIATION EXPENSE?**

15 A. I reduce Depreciation Expense by \$130,954 based on the 25% non-used and useful
16 percentage recommended by OPC witness Woodcock. This adjustment is
17 consistent with the adjustment I made to rate base for non-used and useful Plant
18 and Accumulated Depreciation.

19
20 **Q. WHAT IS YOUR ADJUSTED DEPRECIATION EXPENSE FOR PHASE II**
21 **RATES?**

22 A. The net Depreciation Expense for Phase II rates is 224,316. This is a decrease to
23 the Utility's MFR requested Depreciation Expense of \$72,346.

24

1 Taxes Other Than Income (TOTI)

2 **Q. WHAT ARE THE APPROPRIATE AMOUNTS OF TAXES OTHER THAN**
3 **INCOME TAXES TO BE INCLUDED IN SETTING PHASE I RATES?**

4 A. For Phase I Rates, I first make a \$62,863 adjustment to remove the regulatory
5 assessment fees on my test year revenue net adjustment. The second adjustment I
6 make is to reflect the annualization of payroll taxes consistent with the method that
7 I used to adjust Phase I salaries for AWT. I annualized the January through April
8 2016 balance of payroll taxes from the Utility's general ledger and multiplied that
9 balance by 3 to get the 2016 annualized level of payroll taxes. This results in an
10 increase to payroll taxes of \$5,682. The last adjustment I make for Phase I Taxes
11 Other Than Income is to remove the Utility's requested pro forma adjustment to
12 property taxes on the pro forma plant adjustment. This is a decrease of \$35,696.
13 The total adjustment to Phase I Taxes Other Than Income is a net decrease of
14 \$92,878, which results in an adjusted 2014 balance of \$153,029.

15
16 **Q. WHAT ARE THE APPROPRIATE AMOUNTS OF TAXES OTHER THAN**
17 **INCOME TAXES TO BE INCLUDED IN SETTING PHASE II RATES?**

18 A. For Phase II Rates, I first make a \$55,356 adjustment to remove the regulatory
19 assessment fees on my test year revenue net adjustment. Second, I reflect the
20 \$1,875 payroll tax adjustment made in the PAA Order, as I concur with the increase
21 to the Utility's pro forma adjustment to salaries the Commission made. The
22 adjustment to payroll taxes should be a fall-out based on the amount of salaries
23 ultimately approved by the Commission. The third adjustment is an increase to
24 property taxes of \$13,355 to reflect the adjusted pro forma plant that I am including
25 for Phase II Rates. The last adjustment that I make for Phase II Taxes Other Than

1 Income is to remove the \$16,177 in non-used and useful property taxes based on
2 OPC witness Woodcock's used and useful analysis. The total adjustment that I
3 make to Taxes Other Than Income is a decrease of \$56,302, which results in an
4 adjusted 2016 pro forma test year balance of \$189,605.

5
6 Revenue Requirements

7 **Q. WHAT IS THE APPROPRIATE REVENUE REQUIREMENT FOR PHASE**
8 **I RATES?**

9 A. Based on my recommended adjustments to the Phase I rate base, cost of capital and
10 operating expenses, the appropriate revenue requirement for Phase I rates should
11 be \$1,821,639. This represents an increase of \$286,840, or 18.69%, to adjusted
12 2014 test year revenues.

13 **Q. WHAT IS THE APPROPRIATE REVENUE REQUIREMENT FOR PHASE**
14 **II RATES?**

15 A. Based on my recommended adjustments to the Phase II rate base, cost of capital
16 and operating expenses, the appropriate revenue requirement for Phase II rates
17 should be \$2,269,893. This represents an increase of \$568,263, or 33.40%, to
18 adjusted 2016 pro forma test year revenues. My adjustments to Phase II rates are
19 not cumulative from my Phase I rates, which is different from how the revenue
20 increase was presented in the PAA Order.

21
22 Utility's Revised and Unnoticed Revenue Requirement Increase

23 **Q: DID THE UTILITY'S JULY 1, 2016 TESTIMONY, EXHIBITS, AND MFRS**
24 **SUBSTANTIALLY INCREASE ITS ORIGINAL REQUEST FOR RATE**
25 **RELIEF?**

1 A: Yes. As reflected in Exhibit DDS-2, attached to Utility witness Swain's testimony,
2 the Utility increased its requested revenues by \$413,598. On July 1, 2015, the
3 Utility, in its original application and MFRs, requested a revenue requirement of
4 \$2,931,759 (\$1,438,382 or a 96% increase) to account for the new plant expansion
5 project required to meet future wastewater demand related to extraordinary growth,
6 as well as comply with AWT as of January 1, 2016. However, in Ms. Swain's
7 direct testimony, KW increased the projection of its WWTP expansion cost and
8 added a new pro forma estimate of \$615,177 for a vacuum tank replacement, which
9 was not included in its original application. As I testified, the Utility also increased
10 its pro forma O&M expenses by \$224,541, its depreciation expense by \$82,293,
11 and taxes other than income by \$36,386. Lastly, the Utility increased its cost of
12 capital from 8.01% to 8.16%. Together, all of these additional pro forma costs
13 increased the Utility's requested revenue increase from 97% in its original MFRs,
14 by an additional 14.11%. The revised revenue increase included in the Utility's
15 direct testimony is now 126.14%.

16

17 **Q. DO YOU HAVE ANY COMMENTS REGARDING THE UTILITY'S**
18 **ATTEMPT TO INCREASE ITS REQUESTED REVENUES THIS LATE IN**
19 **THE PROCEEDING?**

20 A. Yes, I do. It is inappropriate for the Utility, through its testimony, to seek a rate
21 increase that materially exceeds its request in its original petition. First, other than
22 the treatment plant expansion and vacuum tank replacement, the other pro forma
23 adjustments are unsupported. Second, the Utility has not provided any notice to its
24 customers that it is requested higher revenues, and thus, rates higher than those that

1 were included in the official customer notice of the case. Any revenue increase
2 above the original request should be completely denied.

3
4 **Q. IN YOUR REGULATORY EXPERIENCE, HAVE YOU EVER OBSERVED**
5 **ANY SIMILAR EXAMPLES OF WHEN A UTILITY HAS REQUESTED**
6 **HIGHER REVENUES AFTER IT FILED ITS ORIGINAL PETITION FOR**
7 **A RATE INCREASE AND INITIAL CUSTOMER NOTICE?**

8 A. Yes, I have been involved in at least two cases where this issue arose. The first was
9 a General Development Utilities (GDU) system named Silver Springs Shores²¹.
10 The second was a Utilities, Inc. of Sandalhaven²² case in 2006. While there is no
11 Commission order issued that explains the rationale for suspending or extending
12 these cases, I was personally involved with both cases: first when I was on
13 Commission Staff and the second as OPC Staff. Basically, what transpired in those
14 cases was the utility attempted to revise its revenue requirements subsequently in
15 the docket after the original petition and customer notices had been distributed to
16 customers. The Commission in the GDU case and Commission Staff in the
17 Sandalhaven case stated that, if the change were allowed, it could create a due
18 process violation for the customers.

19 In the GDU case, the Commission dismissed the evidentiary hearing shortly
20 after calling the hearing to order and heard no evidence in the case. I have attached
21 a copy of the hearing transcript as Exhibit PWM-9. It then required the Utility to
22 re-notice the customers, changed the official date of filing, and re-started the

²¹ See Docket No. 870239-WS, In re: Application of General Development Utilities, Inc., Silver Springs Shores Division, for increased water and sewer rates in Marion County.

²² Order No. PSC-07-0865-PAA-SU, issued October 29, 2007, in Docket No. 060285-SU In re: Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

1 statutory time clock. In the Sandalhaven case, the Staff, Utility, and OPC met and
2 discussed what other options the utility had to rectify the situation. The Utility
3 ultimately decided to re-file its MFRs at a later date to include the additional
4 information to support its revised revenue requirement.

5
6 **Q. WHAT OTHER CONCERNS DO YOU HAVE REGARDING KW'S**
7 **DECISION TO INCREASE ITS REQUESTED REVENUES, EXPENSES**
8 **AND RATE BASE IN THIS RATE PROCEEDING?**

9 A. The post-PAA protest should not be a vehicle for KW to bootstrap new rate increase
10 requests into its original filing, thereby, punishing customers for protesting the
11 PAA Order. Alternatively, KW's expanded rate increase request should be treated
12 as a new rate case, supplanting the Utility's original rate case, and resetting all the
13 statutory timeframes and controlling dates. Ultimately, KW has the burden of proof
14 to show the Commission why it should not be treated as such and that it has
15 complied with all statutory and regulatory requirements, including properly
16 noticing its customers.

17
18 **Q: HOW SHOULD THE COMMISSION TREAT THIS EXPANDED**
19 **REQUEST FOR RATE RELIEF?**

20 A: While I have included the cost of the vacuum tank and additional plant expansion
21 costs in my Phase II rate recommendation, it is better policy for the Commission to
22 deny the Company's request for this additional relief not included in its original
23 PAA rate increase filing. This is especially appropriate if the Commission
24 determines that the Utility failed to comply with the customer notice requirements.

1 Billing Determinants

2 **Q. WHAT ARE THE APPROPRIATE BILLS AND GALLONS TO USE TO**
3 **ESTABLISH PHASE I RATES?**

4 A. It is appropriate to use the PAA Order billing determinants approved in the PAA
5 Order for Phase I rates. Although it is evident that the 2015 and 2016 revenues and
6 billing determinants were higher than those in the 2014 test year, my revenue
7 requirement calculations based on the PAA Order billing determinants are
8 reasonable for setting Phase I rates.

9 **Q. WHAT ARE THE APPROPRIATE BILLS AND GALLONS TO USE TO**
10 **ESTABLISH PHASE II RATES?**

11 A. Consistent with my adjustments to Phase II test year revenues and to comply with
12 the matching principle, the bills and gallons used to calculate the rates should be
13 increased to reflect the projected level of customers that will be online for the first
14 year of operation of the wastewater treatment expansion. I have used the actual
15 increase in 2015 revenues to estimate the number of bills and gallons by customer
16 class as the Utility has refused to provide the restated number of 2015 customers
17 and gallons consistent with the method used by the Commission in the PAA Order.
18 To determine the appropriate 2016 billing determinants, I escalated the 2015 levels
19 that I calculated by 5%, consistent with OPC witness Woodcock's used and useful
20 projection. I would point out that Mr. Woodcock has estimated the consumption
21 level for the pro forma 2016 test year, and then determined the used and useful
22 percentage using a 5-year growth allowance consistent with my adjustments to the
23 test year to year-end 2016. I have reflected my calculations to the 2016 level of
24 bills and gallons on Exhibit PWM-3, Schedule 4-B.

1 Measured Service Rates

2 **Q. BASED ON YOUR RECOMMENDED REVENUE REQUIREMENT AND**
3 **THE PAA ORDER BILLING DETERMINANTS, WHAT RATES HAVE**
4 **YOU CALCULATED FOR PHASE I RATES?**

5 A. I have attached my recommended Phase I rates on Schedule 4-A. Using a base
6 facility charge of \$25.02 and a gallonage charge of \$4.15, a residential customer
7 with a monthly consumption of 4,000 gallons would pay \$41.62 a month under my
8 Phase II rates.

9
10 **Q. BASED ON YOUR ADJUSTED BILLING DETERMINANTS, WHAT ARE**
11 **THE APPROPRIATE RATES FOR KW RESORT'S WASTEWATER**
12 **SYSTEM FOR PHASE II RATES?**

13 A. I have attached my recommended Phase II rates on Schedule 4-A. Using a base
14 facility charge of \$28.06 and a gallonage charge of \$4.65, a residential customer
15 with a monthly consumption of 4,000 gallons would pay \$46.66 a month under my
16 Phase II rates.

17
18 Reuse Rates

19 **Q. WHAT IS THE APPROPRIATE RATE FOR KW'S REUSE SERVICE, AND**
20 **WHAT AMOUNT OF REUSE REVENUES SHOULD BE CONSIDERED**
21 **PART OF THE REVENUE REQUIREMENT?**

22 A. The Utility's requested rate of \$1.34²³ is appropriate to charge for reuse, and is
23 more reasonable than the Commission approved reuse rate of \$0.93 per thousand
24 gallons. Currently, the two largest users of reuse water are the affiliate golf course

²³ See MFR Schedule E-1

1 and Monroe County Detention Center. The water rates in the Florida Keys are
2 substantially higher than rates in other parts of the State and range from a low of
3 \$5.84 per thousand gallons to a high rate of \$11.70. The Florida Keys Aqueduct
4 Authority (FKAA) is the water provider for KW's service territory and FKAA's
5 rate for Reclaimed (Reuse) Water Consumption is 50% of each Potable Rate Block.
6 Thus, for a low level of consumption (0-6,000 gallons), the reuse rate for the FKAA
7 is \$2.92 per thousand gallons.

8 In its PAA Order, the Commission stated that reuse rates are typically
9 market based rather than cost based, which provides an incentive to encourage
10 customers to use the reuse. In its analysis, the Commission explained that a review
11 of reuse rates charged throughout Monroe County listed in the Florida DEP's 2014
12 Reuse Inventory Report, showed that there are only two entities, including KW,
13 that currently charge for reuse and that KW's rate was significantly lower than the
14 other provider. Since the FKAA rate sheet lists reuse, it appears this is the other
15 Utility that provides reuse. KW's requested rate of \$1.34 is reasonable, given the
16 comparable rate of the local water provider. Additionally, I concur with the
17 Commission that no additional charge for testing should be approved. I have
18 attached a copy of the FKAA current water rates as Exhibit PWM-8. In addition,
19 using KW's higher requested reuse rate reduces the burden on the residential and
20 general service customers to achieve the approved revenue requirement. A lower
21 reuse rate has the opposite effect.

22
23 **Q. ARE ANY ADJUSTMENTS NECESSARY TO BE MADE TO THE TEST**
24 **YEAR MISCELLANEOUS SERVICE CHARGES AND REUSE**
25 **REVENUES TO REFLECT THE RATE CHANGES APPROVED BY THE**

1 **COMMISSION WHEN CALCULATING THE REVENUE TO BE**
2 **COLLECTED FROM SERVICE RATES IN PHASE I AND PHASE II**
3 **RATES?**

4 A. Yes, the Commission should use the approved miscellaneous service charges and
5 reuse rate when calculating the amount of revenues to be collected from service
6 rates. This was not done in the PAA Order, which increased the amount of revenues
7 that should be allocated to residential and general service customers, overstating
8 those rates. This is clearly a matching principal issue that should be applied in
9 setting service rates.

10 **Q. ARE YOU RECOMMENDING ANY CHANGES TO THE COMMISSION**
11 **APPROVED MISCELLANEOUS SERVICE CHARGES AND LATE**
12 **PAYMENT CHARGES?**

13 A. The Miscellaneous Service Charges approved by the Commission are reasonable.
14 The initial connection charge and normal reconnection charge should remain at \$15
15 and the premises visit charge should be \$20 for normal hours and \$45 for after
16 hours. I also concur that the Commission-approved Non-Sufficient Funds (NSF)
17 charges are reasonable. However, KW's request to implement a \$9.50 late payment
18 charge should not be approved, as a \$6.50 charge is more reasonable. Lastly, I
19 agree that KW should be authorized to collect a monthly lift station cleaning charge
20 of \$1,462 from the Monroe County Detention Center.

21

22 Phase II Rate Increase Implementation

23 **Q. IF THE COMMISSION APPROVES A PHASE II RATE INCREASE FOR**
24 **KW, WHEN AND UNDER WHAT CIRCUMSTANCES DO YOU BELIEVE**

1 **IT SHOULD BE IMPLEMENTED?**

2 A. In my opinion, it is generally better public policy not to approve Phase II rates at
3 this time, but wait until the new plant is placed into service. Then the Commission
4 can review and approve new rates based on actual cost information instead of cost
5 estimates or projections.

6 However, if the Commission desires to approve Phase II rates now, it should
7 approve the Phase II rates OPC is recommending for approval, and the new Phase
8 II rates should be implemented 30 days after the new plant is placed into service
9 and becomes used and useful. Similar to the PAA Order, the implementation of the
10 Phase II rates should be conditioned upon KW completing the pro forma items with
11 appropriate approvals from DEP, and, once verified by staff, the rates should be
12 effective for service rendered on or after the stamped approval date on the tariff
13 sheet, pursuant to Rule 25-30.475(1), F.A.C. However, if the Utility encounters
14 any unforeseen events that will impede the completion of the Phase II plant items,
15 then KW should immediately notify all parties to this proceeding and the
16 Commission, in advance of the deadline, so as to allow ample time to review
17 whether an extension is appropriate.

18 KW is requesting that the Commission approve and implement a Phase II
19 rate increase prior to the new plant's in-service date and forgo a Phase I rate
20 increase. If the Commission implements a Phase II rate increase prior to the new
21 plant's in-service date, there should be a true-up mechanism, and the Commission
22 should ensure that all substantially affected persons and parties have an appropriate
23 point of entry to test the reasonableness and prudence of costs that will be included
24 in such rates. Further, the Commission should still establish Phase I rates for the
25 purposes of determining what refunds, if any, are owed to customers.

1 **Q SHOULD ANY PORTION OF THE IMPLEMENTED PAA RATES BE**
2 **REFUNDED?**

3 A. Yes, the Commission-approved Phase I PAA rates that were implemented by the
4 Utility were excessive, based on my recommended Phase I revenue requirement
5 calculation. The refund should be applied consistent with the Commission's refund
6 rule and should be credited to customer bills over the same amount of time that the
7 increased rates were collected to offset the initial impact of the Phase II rate
8 increase.

9 Service Availability Policy and Charges

10 **Q. IN THE PAA ORDER, THE COMMISSION DISCONTINUED THE**
11 **COLLECTION OF PLANT CAPACITY CHARGES. DO YOU BELIEVE**
12 **THAT THE UTILITY SHOULD BE ALLOWED TO CONTINUE**
13 **COLLECTING THIS CHARGE FROM FUTURE CUSTOMERS?**

14 A. Yes, I believe that the Utility should be allowed to continue to collect the \$2,700
15 per ERC plant capacity charge. In the PAA Order, the Commission stated that
16 although the Utility did not request a change in its service availability policy or
17 charges, the Commission reviewed the Utility's approved policy and charges, as
18 well its current contribution level and the impact of the pro forma plant on that
19 contribution level. In its Order, the Commission stated that the Utility's
20 contribution level, net CIAC/net plant for 2014 was in excess of 100 percent.
21 Further, with the addition of the PAA Order level of pro forma plant items, the
22 contribution level would be 74 percent, with no additional CIAC from future
23 customers.

1 I disagree that KW's plant capacity charges should be discontinued. The
2 rule that the Commission relies upon to discontinue the collection of plant capacity
3 charges is Rule 25-30.580, F.A.C., entitled: "Guidelines for Designing Service
4 Availability Policy." This rule is sets forth guidelines for determining service
5 availability policy. The rule does not mandate that the collection of CIAC shall
6 cease if utility's net CIAC to plant ratio exceeds 75%. In practice, the Commission
7 has not strictly adhered to these Guidelines for Designing Service Availability
8 Policy, and should not do so because the Utility, Monroe County, and OPC all agree
9 that it should continue.

10 In this case, the guidelines should be acknowledged but the Commission
11 should give the Utility latitude to continue collecting CIAC. Based on my
12 calculations to the pro forma 2016 test year, the Utility's net CIAC to net plant ratio
13 will be 78%; however, KW would likely disagree with my net CIAC to net plant
14 ratio calculation. As I testified earlier, the customer growth for this Utility
15 continues to occur. The older parts of the existing plant and collection system will
16 also continue to need repairs and replacement. These are all reasons to allow KW
17 to continue collecting CIAC. There are also other utilities that have been allowed
18 to continue collecting CIAC when its CIAC ratio to net plant exceeded 75%.²⁴

19 Also, the Commission clearly outlined its policy regarding compliance with
20 the 75% guideline maximum in Order No. PSC-00-0917-SC-WS,²⁵ on page 15.

21 The Order states:

²⁴ See Order No. PSC-93-1771-FOF-WS, issued December 10, 1993, page 5, in Docket No. 930256-WS, In Re: Petition for limited proceeding to implement water conservation plan in Seminole County by Sanlando Utilities Corporation.

²⁵ Order No. PSC-00-0917-SC-WS²⁵, page 15, issued May 9, 2000, in Docket No. 981609-WS, In re: Emergency petition by D.R. Horton Custom Homes, Inc. to eliminate authority of Southlake Utilities, Inc. to collect service availability charges and AFPI charges in Lake County and in Docket No. 980992-WS, In re: Complaint by D.R. Horton Custom Homes, Inc. against Southlake Utilities, Inc. in Lake County regarding collection of certain AFPI charges.

1 According to Rule 25-30.580(1)(a), Florida Administrative Code, a
2 utility's service availability policy shall be designed so that, "The
3 maximum amount of contributions-in-aid-of-construction, net of
4 amortization, should not exceed 75% of the total original cost, net
5 of accumulated depreciation, of the utility's facilities and plant
6 when the facilities and plant are at their designed capacity." A
7 utility's compliance with Rule 25-30.580(1)(a), Florida
8 Administrative Code, depends on the circumstances surrounding a
9 given utility. A utility's current contribution level is not the only
10 factor to consider in determining whether its charges should
11 continue because the rule states that the contribution level should
12 not exceed 75% at a utility's design capacity. Future growth and
13 plant expansion should also be considered. A utility's contribution
14 level at a given point in time could exceed 75% due to the timing
15 of plant expansions and customer growth. As long as the
16 contribution level is not projected to exceed 75% at its designed
17 capacity, a utility would be in compliance with the rule.
18

19 Unless the Commission has a reasonable projection of KW's contribution level at
20 its design capacity, it is premature to discontinue the current plant capacity charges
21 at this time. Based on the above, it is reasonable to allow the Utility to continue
22 collecting the \$2,700 plant capacity charge to future customers.
23

24 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

25 **A.** Yes, it does.

1 MR. SAYLER: Now it's time for staff. Hold
2 on. Hold on.

3 BY MR. SAYLER:

4 Q And you also prepared and attached nine
5 exhibits, PWM-1 through PWM-9 to your direct testimony,
6 is that correct?

7 A Yes, I did.

8 Q And you would agree that the Office of Public
9 Counsel filed a replacement page, five of nine, to
10 PMW-3, which is identified on staff's comprehensive
11 exhibit list; is that correct?

12 A That's correct. It was just to refile the
13 schedule because the printing had Xs instead of printing
14 out all of the numbers.

15 Q And then on October 27th, the OPC filed an
16 amendment to PMW-5, which was also identified on staff's
17 comprehensive exist list, is that correct?

18 A That's correct. And we filed that because
19 some of the print in reproduction was illegible.

20 Q And these exhibits and revisions were prepared
21 under your direction and supervision?

22 A Correct.

23 MR. SAYLER: And I would note that PMW-1
24 through PMW-9 were identified as Exhibits 23
25 through 31 on the comprehensive exhibit list.

1 CHAIRMAN BROWN: Thank you, staff.

2 MS. MAPP: Yes. Thank you.

3 EXAMINATION

4 BY MS. MAPP:

5 Q Good afternoon, Ms. Merchant.

6 A Good afternoon.

7 Q Could you please reach into the large white
8 binder and take out the comprehensive exhibit list?

9 Yes, that is it. And turn to page nine.

10 A Okay, I am there.

11 Q Yes. You are identified as for numbers 68, 69
12 and No. 1 on 70. Can you please review those responses?

13 A I reviewed them earlier today.

14 Q And did you prepare these responses, or were
15 they prepared under your direction or control?

16 A I prepared them.

17 Q And are they true and accurate to the best of
18 your knowledge or belief?

19 A Yes.

20 MS. MAPP: Thank you.

21 CHAIRMAN BROWN: Okay.

22 FURTHER EXAMINATION

23 BY MR. SAYLER:

24 Q Ms. Merchant, would you please summarize your
25 prefiled direct testimony?

1 A Yes.

2 Good afternoon, Commissioners. I am
3 presenting OPC's overall revenue requirement for KW in
4 this case using the same two-phase methodology the
5 Commission used in its PAA order. This recognizes the
6 uniqueness of this case and the need to establish two
7 separate revenue requirement calculations. This is due
8 to the length of time between the historical test year
9 and the date that the plant expansion will be placed
10 into service in early 2017.

11 The utility states that the 2014 test year is
12 reasonable and representative of the operations when the
13 new rates will be in effect. We respectfully disagree.
14 The utility's proposed pro forma 2014 test year reflects
15 a 70-percent increase in both plant capacity and
16 expenses, and will not establish fair, just and
17 reasonable rates to be implemented without matching --
18 without further matching adjustments. 2014 is, however,
19 appropriate to measure the reasonableness of the
20 implemented Phase I PAA rates.

21 For my Phase I rates, among other adjustments,
22 I reduced the utility's pro forma O&M expenses to
23 reflect only the level necessary to implement advanced
24 wastewater treatment, or AWT, in 2016 for the existing
25 plant since the utility did not break out the amount for

1 the AWT expenses for 2016 -- excuse me, the utility did
2 not break out the level of AWT expenses needed to
3 operate the plant expansion from those in the -- to
4 implement the existing treatment plant.

5 I used the best methodology that I had, which
6 was to annualize January through April 2016 actual
7 expenses. I also increased chemicals purchase power and
8 sludge hauling expenses by a higher to acknowledge that
9 flows in the last months of the year are generally
10 higher. My Phase I revenue requirement represents a
11 19-percent decrease from the Phase I PAA rates.

12 For my Phase II final revenue requirement, I
13 updated the utility's proposed historical 2014 test year
14 forward to a pro forma 2016 test year. This updated
15 test year is critical to recognize the actual changes
16 that have occurred since 2014, and those that are likely
17 to occur, to appropriately match the utility's
18 investment, operating income and billing determinants
19 with the growth that the utility has stated will occur
20 when the plant expansion becomes operational.

21 The utility filed its 2014 test year and
22 included limited and specific pro forma adjustments to
23 increase the revenue requirement, the majority of which
24 are clearly growth related. Most, other than the AWT
25 expense increases for the existing treatment plant, will

1 be placed into service more than 24 to 36 months after
2 the end of 2014.

3 I also point out that not only is the utility
4 asking for the pro forma plant and expenses it requested
5 in its MFRs, it also increased those adjustments
6 substantially in its direct testimony.

7 Nowhere in these filings has a utility
8 recognized any actual or estimated adjustments that
9 would reduce the revenue requirement. The utility only
10 wants the Commission to consider the material positive
11 increases to rates and objects to any requisition of
12 items that are known and measurable since the end of
13 2014 that would reduce the revenues, as they say they
14 are outside of the test year approved for filing
15 purposes.

16 I testify that the utility's own records show
17 the utility has collected more than \$500,000 in CIAC,
18 that rate base has been reduced by two years of
19 depreciation expense, and customer growth and
20 consumption have increased since 2014.

21 At a minimum, failure to reflect the
22 additional CIAC collected in 2015 and '16, and allowing
23 the recovery of the plant to which the CIAC offsets is a
24 violation of Florida Statutes. A 2016 pro forma test
25 year is appropriate and will resolve this potential

1 violation. It will further match the utility's
2 investment in its plant and expenses with the customers
3 and related consumption for the period that the final
4 rates will be in effect.

5 Based on my adjustments and the
6 recommendations from OPC Witness Woodcock, the
7 appropriate revenue requirement for Phase II is 2.3
8 million, which is a 33-percent increase to my adjusted
9 2016 test year revenues.

10 In addition, the legal fees associated with
11 the utility's litigation of the construction permit for
12 its plant expansion should be capitalized and spread
13 over the life of the plant, as required by the
14 Commission's accounting requirements. The DEP order
15 approving the plant expansion permit clearly states that
16 the issue in the litigation is for the plant expansion
17 and the two additional wells, not the existing plant or
18 effluent wells. It was reasonable for the utility to
19 defend its permit, but the utility's request to expense
20 these legal fees over five years should be denied.

21 Other issues I address include the
22 overstatement of pro forma operating expenses, removing
23 the accounting expenses incurred for the utility to
24 correct its books prior to 2014, the proper pro forma
25 adjustment to the capital structure, and the appropriate

1 amounts of bills in gallons to be used in setting final
2 rates.

3 Finally, I state that a full investigation
4 should be made to determine that the utility has
5 correctly implemented the changes made to bill its
6 customers by the appropriate class and meter size, as
7 well as calculate refunds for customers who were
8 improperly billed at a nontariff rate.

9 This concludes my summary.

10 CHAIRMAN BROWN: Thank you.

11 MR. SAYLER: Public Counsel would tender
12 Ms. Merchant for cross-examination.

13 CHAIRMAN BROWN: Thank you, Ms. Merchant, very
14 brief summary for 88 pages, so welcome.

15 THE WITNESS: Well, it was five minutes.

16 CHAIRMAN BROWN: All right. Good job.
17 We will start with Monroe County.

18 MR. WRIGHT: We have no cross for Ms.
19 Merchant. Thank you.

20 CHAIRMAN BROWN: Thank you.
21 Harbor Shores.

22 MS. AKTABOWSKI: No cross for Ms. Merchant.

23 CHAIRMAN BROWN: Thank you.
24 Utility.

25 MR. FRIEDMAN: Thank you, Madam Chairman. We

1 **determination?**

2 A We did not file any response to the test year,
3 but we did do it shortly after the utility filed its
4 MFRs.

5 Q **And that was later than 30 days after the test**
6 **year request letter was approved, correct?**

7 A That was after the filing, which I am not sure
8 how much time that was.

9 Q **Now, you discuss in your prefiled testimony,**
10 **the debt versus equity in the company, correct?**

11 A Can you direct me to that, please?

12 Q **The -- you don't remember addressing the debt**
13 **equity ratio? Did you not presume that the total cost**
14 **of the plant was going to be funded through debt?**

15 A In my testimony, I was discussing that the
16 company had made a pro forma adjustment of \$3.5 million
17 as to equity, and they -- the utility was assuming that
18 it was going to be all equity to fund the plant
19 expansion, and I challenged that because I hadn't seen
20 any information. And so my testimony basically said
21 that if you didn't have any information to show that it
22 was all going to be equity, that it should be debt until
23 you could document that.

24 Q **And you have seen that documentation since**
25 **then, have you not?**

1 A Of what?

2 **Q Of the actual cash contributed by the -- to**
3 **capital?**

4 A I have seen several adjustments that converted
5 affiliate debt into equity. I have also seen a new \$1
6 million debt issuance, and another \$2.5 million debt
7 issuance that was not included in the company's rebuttal
8 testimony.

9 **Q All right. That's not the question I asked,**
10 **though, did I? I asked you whether you had seen any**
11 **other documentation that the company had made a cash**
12 **contribution to capital?**

13 A And I believe I answered your question. I saw
14 that, yes, I saw that and then I also saw --

15 **Q Other than reduce -- other than adjusting the**
16 **existing debt?**

17 A Can you ask your question again?

18 **Q All right. Since you prefiled this testimony,**
19 **have you not seen documentation to substantiate that**
20 **there has been substantial multiple million dollar cash**
21 **contributions to the utility?**

22 A Yes, I saw that. I saw that they increased
23 their equity. They also -- first, that would have to
24 offset the negative equity that was already on the
25 books, so it wouldn't be -- you wouldn't just assume

1 that those adjustments would be put 100 percent into the
2 capital structure, but as I answered again, I saw that
3 plus the debit issuances.

4 **Q All right. In the -- and you are recommending**
5 **that the legal fees for Last Stand be amortized,**
6 **correct?**

7 A No, that's not correct.

8 **Q Okay. What are you recommending with regard**
9 **to the Last Stand?**

10 A I believe that the Last Stand litigation
11 directly relates to the litigation regarding the
12 construction permit. And as I read the DEP order, it
13 makes it clear to me -- and I am not an engineer, but I
14 am just reading this as somebody can read a document,
15 you know, with my years of experience in regulation --
16 said that the litigation surrounded by the construction
17 of the plant expansion and the two new -- the two new
18 shallow wells, it did not deal with the existing
19 treatment plant or the existing shallow wells.

20 **Q Okay. And if somebody interpreted that order**
21 **otherwise, would that change your opinion about whether**
22 **it should be capitalized or amortized?**

23 A I think the order speaks for itself, but the
24 Commission can interpret that based on the evidence.

25 **Q Okay. When you talk about the CIAC, are you**

1 familiar with the CIAC that the County has paid to the
2 utility?

3 A I am -- no, not particularly. I am familiar
4 with the PSC's audited balance of CIAC, and then the
5 actual CIAC adjustments that the utility made to their
6 books in 2015 and 2016.

7 Q So the answer was, no, you weren't familiar
8 with the --

9 A Not specifically, but only to the extent that
10 it's been included in the PSC audited 2014 balance.

11 Q I believe that you testified that one of your
12 objections to allowing the pro forma without including
13 CIAC and some other expenses that may have reduced, are
14 you aware of any expenses that have reduced
15 prospectively?

16 A You were talking about CIAC and expenses
17 together?

18 Q You were just talking about since we -- since
19 you are trying to use a different test year, correct?

20 A I am trying to update to a 2016, which I
21 really think it should be a 2017 test year, because
22 that's when the new plant expansion is going to take
23 place.

24 Q And does your testimony deal with 2017?

25 A It does address it, but I didn't have the

1 information to deal with 2017.

2 **Q So your position today is that you think there**
3 **should be a 2016 test year, projected test year?**

4 A Yes, as it's a proxy for as close as I can get
5 to the time that the plant will be in effect, because it
6 has so much growth potential associated with it. If it
7 were not -- if this were a non-growth related plant,
8 then I don't think we would be here making this issue.
9 But since it's, you know, such a large increase in plant
10 capacity, and the 70-percent increase in expenses, I
11 think that that's certainly growth related, and it needs
12 to be projected out when the rates are going to be in
13 effect.

14 **Q And the vacuum tank is not growth related, is**
15 **it?**

16 A I agree, it's not growth rel -- excuse me,
17 it's not growth related, and it's -- but it's beyond
18 what -- it's right at the end of 24 months after the
19 historical test year. I did include the vacuum tank in
20 my Phase II rates.

21 **Q Wouldn't you agree that miscellaneous service**
22 **charges should be set so that the customer who cause the**
23 **expense, bears that expense, and not the general body of**
24 **ratepayers?**

25 A I do agree with that, and I was thinking about

1 that earlier in the cross-examination. I think that you
2 need to recognize that some offset will be through test
3 year revenues for that as well, because you can
4 potentially double collect those revenues if you have
5 got them built into your revenue requirement, you also
6 got them in the miscellaneous revenues coming in, then
7 you are getting more revenue, and you are recovering
8 those expenses potentially twice.

9 **Q Isn't the revenue requirement typically that**
10 **the staff does typically take into consideration**
11 **miscellaneous service charges?**

12 A It did, but the company is changing them.
13 They are asking for them to be substantially increased.
14 So they will get more revenue in 2017, if the rate is a
15 proved.

16 **Q And so you don't think those revenues are**
17 **going to be offset by the new higher miscellaneous**
18 **service charges, is that your complaint?**

19 A Which -- I don't understand your question.

20 **Q In setting the final revenue requirements**
21 **that's going to be set in the rates, not the service**
22 **charges, do you not believe that the staff is going to**
23 **consider the miscellaneous service charges?**

24 A I think they certainly should. I think if the
25 miscellaneous service charges increase, then the rates

1 from service -- the revenues that you assign to the
2 service rates should be lowered, and the miscellaneous
3 service revenues should be increased to account for
4 that.

5 **Q All right. On page 66, you talk about, and**
6 **also did in your summary, that you had annualized the**
7 **O&M expenses to project a 2016 O&M expenses; is that**
8 **correct?**

9 A Let me get there, please. Yes. What I did
10 was, in my 2014 test year, I wanted to -- for Phase I
11 purposes, I recognize that they were going to have to
12 implement AWT expenses as of January 1st, and the 2014
13 actual O&M expenses certainly didn't account for that.
14 So I thought the next best thing to do, since the
15 company didn't break out the full pro forma for the
16 plant expansion compared to the 2014 level was to
17 estimate what level of O&M expenses might be incurred in
18 2016. And what I did for that was to take January
19 through April, which was all I had at the time I filed
20 my direct testimony, and I annualized most of those
21 expenses by multiplying them times three. But for the
22 ones that are directly related to the increases in
23 treatment, like chemicals, purchase power and sludge
24 hauling, I increased that by a higher percentage to
25 recognize that there were higher flows at the end of the

1 year.

2 **Q Higher percentage than 3.25?**

3 A No. I used 3.25, that's higher than three.

4 **Q Okay. So you --**

5 A That's about a 12-percent increase.

6 **Q And why did you pick 3.25 versus 3.5 or four?**

7 A Well, it's only three months, and I think a
8 12-percent increase over the whole year is, was
9 representative.

10 I have also gone back and looked -- I have got
11 September numbers right now. And September, if you
12 annualize September, and you still make an adjustment
13 higher for chemicals and purchase power and sludge
14 hauling, the company is still much lower than even my
15 January through April 2016 annualization.

16 **Q I don't think that's true.**

17 MR. SAYLER: Objection, testimony by counsel.

18 CHAIRMAN BROWN: I agree.

19 BY MR. FRIEDMAN:

20 **Q Do you think that somebody equally qualified**
21 **with you could use a different number than 3.25 percent**
22 **to be reasonable?**

23 A I think there could be any number of -- I
24 think the actual -- the closest that you get -- the
25 closer number you can get to what actual was for 2016 is

1 probably the best number, and that's why I thought that
2 maybe looking at September, it could have gone either
3 way, and I just happened to look at that a week or so
4 ago.

5 **Q So you didn't delve into the specifics of each**
6 **O&M expense, such as salaries, to see whether it was**
7 **appropriate to make other adjustments to those expenses?**

8 A I was trying to see what they actually
9 incurred in 2016, not what they are going to need when
10 the new plant is in service.

11 **Q All right. So for the -- assuming for the**
12 **first three months of the year they weren't at full**
13 **staffing, then wouldn't your multiplication of only**
14 **three times that understate salaries?**

15 A It could, but it also -- you know, that's why
16 I was saying that September number is much more -- it's
17 got nine months, and it's lower, so --

18 **Q All right. Am I correct, that on page 68, you**
19 **talk about duplicative legal fees?**

20 A Is that with respect to rate case expense?

21 **Q That's correct. Am I correct?**

22 A Correct.

23 **Q Are you saying that the utility wasn't prudent**
24 **in retaining both Mr. Smith and myself to handle this**
25 **case?**

1 A I believe that as long as -- and I didn't
2 answer the question. I was -- I would say the utility
3 has a right to represent their client to the best that
4 they feel, but I also believe that the Commission needs
5 to look at what's reasonable and prudent. So in the
6 utility's mind, it might have been reasonable to hire
7 two attorneys, but if they are doing the same function,
8 I don't believe that that's necessary and reasonable.

9 And there were a lot of expenses in the PAA
10 rate case expense analysis that showed duplicative legal
11 fees, that both you and Mr. Smith were at the same
12 meeting at the same place, and it just didn't appear to
13 be necessary to have two lawyers, one at those high --
14 higher charge-out rates.

15 **Q All right. And is the utility entitled to the**
16 **same representation that Monroe County and the Public**
17 **Counsel is?**

18 A I would say everybody deserves equal
19 representation.

20 **Q Okay. And isn't it true -- and you**
21 **participated in a number of issue identification calls,**
22 **did you not, several of those, even some settlement**
23 **discussions, you participated in those, did you not?**

24 MR. SAYLER: Objection.

25 MR. WRIGHT: Time out.

1 CHAIRMAN BROWN: All right. Where did the
2 objection come from? I heard two.

3 MR. SAYLER: I will let the County go first.

4 MR. WRIGHT: I was cheerfully going to defer
5 to Mr. Sayler, but I was pointed out here. We had
6 a specific agreement not to discuss whether any
7 settlement discussions took place at all. To the
8 extent Mr. Friedman has just asserted that they
9 did, he violated that agreement.

10 MR. FREIDMAN: And I apologize if that was the
11 understanding. I certainly wasn't going to go into
12 any terms of any agreement. The purpose of it was
13 just to discuss the fact that we all had lots of
14 lawyers at all of these things.

15 MR. WRIGHT: The agreement was specifically
16 not to disclose the existence of settlement
17 conversations, Madam Chairman.

18 CHAIRMAN BROWN: Okay. So, Mr. Friedman, if
19 you could proceed on a new train of questions, and
20 we will strike that last question.

21 BY MR. FREIDMAN:

22 **Q Ms. Merchant, you participated in a number of**
23 **telephone calls, did you not, involving issue**
24 **identification and the prehearing statements?**

25 A Yes, I did.

1 Q All right. And isn't it true that in -- on
2 most of those calls, the County had both of the its
3 attorneys participate, and sometimes even the County
4 Attorney as well?

5 A I am not sure about that. I know that Mr.
6 Wright participated sometimes and Mr. LaVia participated
7 sometimes. Otherwise, I am not exactly sure of other
8 people that were there.

9 Q What about on the depositions, do you know who
10 participated in your deposition?

11 A No, not right off the bat.

12 Q And did you hear the appearances this morning
13 before the hearing, appearances for counsel for the
14 parties?

15 A I think I did.

16 Q Okay. And how many did the County introduce?

17 A I think Mr. Wright and Mr. LaVia, but
18 Mr. LaVia is not here, I don't think.

19 Q And what about the County Attorney, the County
20 Attorney's office is appearing as well?

21 A She's here.

22 Q And she's an attorney as well?

23 A That's my understanding.

24 Q Okay. And how many attorneys have Public
25 Counsel noticed in appearances on this case?

1 A I believe it's Mr. Sayler and my boss, J.R.
2 Kelly.

3 **Q Ms. Morse isn't listed anywhere as an attorney**
4 **working with OPC on this case?**

5 A I am not sure, but she's rather new with our
6 office, and she was participating so she could review.
7 I don't have the prehearing order in front of me.

8 **Q Okay. And your boss, Mr. Kelly, is an**
9 **attorney, is he not?**

10 A I believe by statute he has to be.

11 **Q Okay. And the Public Counsel and the County**
12 **have worked closely on this case, have they not?**

13 A We have been in several meetings together and
14 conversations, yes.

15 **Q And Mr. Kelly has also participated in those**
16 **conversations?**

17 A Some, not all of them.

18 **Q Okay. And in those cases where they**
19 **participated jointly, did y'all offer to give back part**
20 **of your salary?**

21 A I didn't offer to give back any of mine.

22 **Q Do you know whether Mr. Kelly or Mr. Sayler**
23 **offered to give back some of their salary when both of**
24 **them were participating in a conversation?**

25 A I think that is paid for by the general body

1 of taxpayers.

2 Q Including me?

3 A If you are a taxpayer in Florida.

4 Q So is that a different standard than the
5 utility has because just because they are being paid for
6 by a smaller group of people?

7 A I am not sure if we make as high of an hourly
8 rate, but that, I think, is reasonable that we have the
9 Public Counsel here, and we have Mr. Sayler, who is
10 actually litigating the case.

11 Q Okay. And so don't you think that, as a
12 normal part of litigation, that two lawyers get together
13 and discuss things like strategy, and what to ask
14 witnesses, and things like that?

15 A I am not sure what regular lawyers do on that
16 regard. Not that my boss is not a regular lawyer, but I
17 am talking about outside lawyers.

18 MS. AKTABOWSKI: Maybe make a deduction for
19 me.

20 BY MR. FRIEDMAN:

21 Q Now, isn't it -- and you looked at the rate
22 case expense exhibit that the utility has filed?

23 A Not in great detail, I have not. But I have
24 looked at lots of -- a lot of it, but I would say
25 probably I have not looked at 100 percent of it.

1 **Q** Well, isn't it true then that a substantial
2 amount of the legal rate case expense and accounting as
3 well is a result of activities that the utility's
4 lawyers had to undertake in responding to OPC and County
5 and staff discovery?

6 A I am not sure to the level that's significant,
7 but they did have to do discovery -- answer discovery,
8 and there is lots of pleadings and filed testimony, I
9 agree to that.

10 **Q** In fact, KW filed initial discovery in this
11 case, did it not? KW Resort Utility filed the first
12 discovery in this case, did you participate in that?

13 A To who?

14 **Q** To the OPC and Monroe County?

15 A Are you referring to the discovery that was
16 filed before we filed our prefiled testimony?

17 **Q** Sure.

18 A Yes, that's my understanding. And that's
19 extremely unusual, in my experience, for a utility to
20 file discovery before the parties have actually filed
21 their testimony. In fact, I haven't even seen that in
22 the electric companies.

23 **Q** The utility has got a right to do it, don't
24 they?

25 A I don't know. I just say it's very unusual

1 for a water and wastewater case.

2 **Q All right. And in keeping with your theory on**
3 **that, isn't it true that the OPC and the County did not**
4 **respond to many of the discovery requests?**

5 A It was my understanding that it was premature.
6 And we did actually respond to it, but it was after we
7 filed our testimony, so most of the answers were already
8 known by the time we filed our testimony. And I was
9 actually quite shocked that we didn't get discovery
10 right after we filed our testimony.

11 **Q Isn't it true that the utility had to file a**
12 **motion to compel against both OPC and the County to get**
13 **the discovery responses?**

14 A Yes, they did do that, but that's my
15 experience here at the Commission, is that that doesn't
16 actually happen because, most of the time, and I would
17 say 98 percent of the time, the discovery comes right
18 after Public Counsel has filed their testimony. In
19 fact, sometimes it might be filed a couple weeks before
20 we file our testimony so that the response is due right
21 when we file our testimony, that's quite normal, but to
22 have it done early is very unusual.

23 **Q And apparently the prehearing officer**
24 **disagreed with you, correct, since an order was entered**
25 **compelling Public Counsel and Monroe County to respond?**

1 A The prehearing officer did disagree with us,
2 but it was several weeks after we filed -- gosh, maybe a
3 month after we filed our testimony. So to me, at that
4 point, it was reasonable to answer that question, but
5 not prior to that, so --

6 Q Well, you didn't voluntarily supplement your
7 testimony, did you, or supplement your discovery
8 responses without having a court order -- a Commission
9 order to do so, did you?

10 A I don't know the requirements for
11 supplementing. It's my understanding we actually
12 answered it, so I didn't see that we needed to
13 supplement it.

14 Q But the prehearing officer disagreed with you,
15 correct?

16 A Yes, he did.

17 Q And OPC sent five sets of discovery, is that
18 correct, to the utility?

19 A Yes.

20 Q And the PSC sent three sets of discovery, is
21 that correct?

22 A I am not exactly sure.

23 Q Are you familiar with whether the County filed
24 two sets of discover?

25 A I know they served some, but I am not sure how

1 many.

2 Q And the HOA even served some discovery, did it
3 not?

4 A I recall they did.

5 Q And in reviewing the rate case expense
6 documentation that was provided, did you notice that an
7 associate in Mr. Smith's firm was responsible for
8 primarily responding to that, and that his hourly rate
9 is substantially lower than -- did you get that into the
10 weeds?

11 A No.

12 Q Wouldn't you have to do that to make an
13 opinion on whether the overall legal rate case expense
14 was reasonable?

15 A I am actually not testifying to all of the
16 rate case expense. I am actually basically testifying
17 that the rate case expense, and the PAA order, and so I
18 am adopting essentially the PAA order position, and
19 that's where the duplication of attorneys was derived
20 for my testimony, was from the PAA order.

21 Q All right. So you are not addressing any of
22 the rate case expense in connection with the protest by
23 OPC and the County?

24 A I haven't taken it beyond the PAA order.

25 MR. FRIEDMAN: I have no further questions.

1 CHAIRMAN BROWN: Thank you.

2 Staff.

3 MS. MAPP: Yes. Thank you. Staff has
4 exhibits that we would like to hand out for our
5 questioning.

6 CHAIRMAN BROWN: All right. Would you like --
7 we will be starting at 98. Thank you. Just one
8 exhibit?

9 MS. MAPP: Yes.

10 CHAIRMAN BROWN: Okay. We will mark that at
11 this time. The errata is 97.

12 98 will be marked as staff's second set of
13 interrogatories No. 66.

14 (Whereupon, Exhibit No. 98 was marked for
15 identification.)

16 EXAMINATION

17 BY MS. MAPP:

18 **Q All right. Thank you.**

19 Good afternoon, Ms. Merchant.

20 **A** Good afternoon.

21 **Q Could you please turn with me to page 83 of**
22 **your direct testimony?**

23 MR. SAYLER: What page was that?

24 MS. MAPP: 83.

25 THE WITNESS: I am there.

1 BY MS. MAPP:

2 Q And review the sentence beginning on line 16,
3 concluding on line 17.

4 A This is in regards to the additional charge
5 for reuse testing?

6 Q Yes.

7 A Yes.

8 Q Would you agree that testing is still required
9 for the reuse?

10 A My testimony was based on what was in the PAA
11 order, and I really don't know. I think they -- I
12 assume the testing is still required, but I believe -- I
13 don't have the order with me right now, but I believe
14 the order said that that would be included in the higher
15 rate that the Commission established.

16 Q Now, based on your recommendation, if testing
17 for reuse is still required, in what manner will KWRU
18 recover the cost for the testing?

19 A It would be in the higher -- can I review the
20 PAA order real quick?

21 Q If you have it with you, yes.

22 A No, I don't have it with me. I have got it
23 over there, if I could go get it real quick.

24 CHAIRMAN BROWN: Or have the attorney --

25 THE WITNESS: Or somebody get me the PAA

1 order.

2 CHAIRMAN BROWN: Mr. Sayler will bring it.

3 Ms. Merchant, you can go ahead and go get it.

4 I see who is in charge there, Mr. Sayler.

5 THE WITNESS: That was my file, though.

6 MR. SAYLER: She has trained me well.

7 THE WITNESS: Okay. This is on page 35 of the
8 PAA order, and it's in the next to last paragraph.
9 It says, "we examined the revenues received from
10 the reuse service and additional testing from the
11 test year. Based on this information, we find that
12 the 93 cents per thousand gallons is a reasonable
13 rate for KW Resort's reuse service, including the
14 cost of testing. This would negate the need for an
15 additional charge for testing." And that's what I
16 based my testimony on.

17 BY MS. MAPP:

18 Q And so is your recommendation to continue as
19 stated within that paragraph?

20 A Yes, ma'am.

21 Q Okay, thank you.

22 Now, if you could turn to PWM -- one minute,
23 please.

24 Okay. If you could please turn to PWM-3C of
25 your direct testimony.

1 A Three -- that's not how I numbered them,
2 but --

3 Q **Yes, it's labeled PWM, hyphen 3C.**

4 A Okay.

5 Q **Page seven of nine.**

6 A Page seven of nine?

7 Q **Yes.**

8 A Okay.

9 Q **You have a line item labeled, New Connection**
10 **Administration. It's the last line item on the top half**
11 **of the page.**

12 A Correct.

13 Q **Can you please describe your understanding of**
14 **what those revenues represent, and in what manner they**
15 **are collected?**

16 A That's how the utility puts this information
17 on their general ledger. And I presume that it's not
18 the connect/disconnect, because there is a zero there.
19 And it must be the miscellaneous service charges that
20 are not otherwise listed here.

21 Q **Okay. Now, if you could turn to the exhibit**
22 **that was just handed out, I believe that's number --**

23 CHAIRMAN BROWN: 98.

24 BY MS. MAPP:

25 Q **-- 98.**

1 A I am there.

2 Q Here, KWRU indicated that the revenues are
3 collected pursuant to terms and conditions of its
4 developer agreements for services, such as engineering
5 review and administrative costs related to processing
6 construction plans and conducting inspections related to
7 on-site construction.

8 A That's not what my response says. Do I have
9 the wrong document?

10 CHAIRMAN BROWN: I have the -- that's not --
11 she -- Ms. Mapp, do you have the right document?

12 THE WITNESS: And I guess I would say that
13 this is the -- KWRU is on the title. It's not
14 anything I prepared, but it's KW's response to
15 staff's --

16 BY MS. MAPP:

17 Q Yes, I have the right document. I was
18 reading -- I was giving more detail than was on the
19 form, but I was relating it to the response where it
20 states that the revenue was collected pursuant to the
21 terms and conditions of the form and developer's
22 agreements utilized for all developments and
23 redevelopments such as approved by the PSC.

24 MR. SAYLER: A light objection, I think it
25 assumes a lot of facts not in evidence, but if

1 Ms. Merchant can answer.

2 CHAIRMAN BROWN: I am going to allow the
3 question.

4 Ms. Merchant.

5 THE WITNESS: Understanding that I didn't
6 prepare this, and it's KW's response to staff's
7 discovery, the 5,169.63 does not correspond -- oh,
8 there it is. It's on the PAA balance, but the
9 general ledger, that was for 2014, was 5,170,
10 according to my schedule, PWM-3C, page seven of
11 nine. The 2015 general ledger shows it went up to
12 38,000, and that was just from the same account.

13 BY MS. MAPP:

14 **Q Did KWRU employ the appropriate accounting**
15 **treatment of those monies collected in accordance with**
16 **their developer agreement, in your opinion?**

17 A I would have no -- are you saying did they
18 account for it appropriately?

19 **Q Yes.**

20 A I wouldn't be able to tell you that. I don't
21 see any other miscellaneous service charges in their
22 general ledger, so I would assume that's going to
23 include any kind of miscellaneous service charge
24 revenue.

25 **Q Would you have any knowledge of what specific**

1 NARUC accounting treatment should be used for monies
2 collected as a result of development agreement for
3 engineering review and administrative costs related to
4 processing construction plans and conducting inspections
5 related to on-site construction?

6 A Let me -- I am not sure if the Uniform System
7 of Accounts goes into that much detail, but I don't have
8 it in front of me, so I -- it's an exhibit that we filed
9 in discovery, but I don't -- if I could look at it, I
10 could tell you.

11 Q One moment, please.

12 We will just move on from that question.
13 Thank you.

14 Would you agree that transportation,
15 administrative and field labor costs, excluding overhead
16 for benefits and insurance, are sufficient components in
17 developing miscellaneous service charges?

18 A Gosh, I don't think I have ever done that
19 before. That's never anything that I ever did at the
20 Commission. I think if you were going to match a
21 revenue for an initial connection or reconnection, that
22 you would look at the costs incurred associated with
23 that. I don't know the distinction of having the labor
24 plus loaded labor -- I mean, loaded for benefits and
25 transportation. I don't know whether the Commission has

1 done that regularly or not.

2 Q Can you please turn to page 84 of your direct
3 testimony, lines 17 through 18?

4 CHAIRMAN BROWN: Are you there? Ms. Merchant?

5 THE WITNESS: I am reading it.

6 CHAIRMAN BROWN: Okay.

7 THE WITNESS: Thank you.

8 I am there.

9 BY MS. MAPP:

10 Q What is your basis for believing that the
11 \$6.50 late payment charge is more reasonable than the
12 \$9.50?

13 A I was relying on the analysis by staff in the
14 PAA recommendation and the PAA order.

15 Q And would you agree that a non-loaded labor
16 cost would be sufficient to develop a late payment
17 charge, excluding benefits, insurance?

18 A I don't really have an opinion on it.

19 Q Could you turn to page seven of your testimony
20 and review lines one through 20?

21 A Page seven, lines what?

22 Q One through 20.

23 A Thank you. I am there.

24 Q Do you agree that test year projections can
25 create the opposite problem that you state here in your

1 **testimony of under-earning due to problems with growth**
2 **related adjustments?**

3 A I am not sure that's what I have testified to.
4 I think what I am testifying to here is that the utility
5 has cherrypicked, you know, picking the items that go up
6 without recognizing the offsets that are occurring at
7 the very same time, even before the plant has gone into
8 service. And that's my position, that the test year,
9 with only making the company's adjustments, is unfair;
10 that you have to recognize all of these items, because
11 it is growth related plant. And I hope that I answered
12 your question.

13 Q I am -- I just want to refer you directly, I
14 guess, to lines 11 through 14, where you state
15 specifically, "further, to increase the cost of the
16 plant and operating expenses without reflecting known
17 and reasonable expected increases in sales and customer
18 growth, which KW clearly expects, you will inflate the
19 average cost per customer over the true cost and, thus,
20 overstate the rates charged to customers."

21 My question is specifically asking is the
22 opposite problem also not -- isn't the opposite problem
23 also a possibility with under-earning due to growth
24 related adjustments -- I am sorry, understating the rate
25 structure?

1 MR. SAYLER: Can counsel restate that
2 question?

3 CHAIRMAN BROWN: No. That's a long question.
4 Do you understand the question, Ms. Merchant?

5 THE WITNESS: I think I do, because we went
6 through this in my deposition.

7 If I can answer what I think she's asking, is
8 that if you take the -- if you overstate the
9 consumption component, then you could understate
10 the earnings of the company. But I think that
11 there are so many moving pieces, you can't look at
12 one thing in a vacuum. And if you overstate the
13 expenses, you could easily overstates the earnings
14 in setting rates. If you overstate the cost of
15 capital, you can overstate the earnings. If you
16 overstate the bills in gallons, you can understate
17 the earnings. But you can't look at one in a
18 vacuum, you have got to look at the whole thing.

19 And that's what I was trying to say, is if you
20 can match all these things to the best of your
21 knowledge, that's going to give you the most fair
22 and most reasonable rates, instead of a 2014
23 historical test year, with only positive numbers,
24 without the known CIAC, the known changes in
25 depreciation expense, and the known changes in

1 bills in gallons. There is too many
2 understatements. The likelihood that you are going
3 to understate the earnings of the company with
4 those situations is not that likely.

5 BY MS. MAPP:

6 **Q If potential growth immediately after the**
7 **expansion was not an issue, do you believe that an**
8 **historic 2014 test year, with pro forma and used and**
9 **useful adjustments would be reasonable in this case?**

10 A If there was no plant expansion, and no growth
11 was expected, then we certainly have pro forma -- plant
12 and pro forma expenses all the time that are non-growth
13 related, and that's certainly appropriate, because it's
14 much more expensive to go through a projected test year
15 a non-growth related plant and non-growth related O&M
16 expense pro forma adjustments. But once you add in a
17 70-percent increase in capacity and a 70-percent
18 increase in O&M spending, you have got a completely
19 different ballgame if you don't match up all those
20 components.

21 **Q So you don't believe a used and useful**
22 **adjustment would adequately -- would adequately address**
23 **the growth -- the growth at -- the historical growth**
24 **from the -- growth from the historical test year?**

25 A You are talking about a growth related plant?

1 The used and useful adjustment can be made in a case
2 without a major pro forma situation, but I really think
3 it goes back to, do you have growth related plant or
4 non-growth related plant?

5 You have got to set your test year so that the
6 investment of the utility, and the operating expenses of
7 the utility, and the billing determinants of the utility
8 at the point in time to the best of the ability -- your
9 best guess, best estimate about the time that the rate
10 is going to be in effect. If you only do the positives
11 without doing the offsets, then you have not set the
12 most reasonable rates on a going-forward basis.

13 **Q And could you please turn to page 56 of your**
14 **testimony, and review lines five through 12?**

15 A That's -- I am there.

16 **Q All right. Did you happen to review the**
17 **testimony of Kevin Wilson in this docket?**

18 A I read it one time, and I am not an expert
19 into what all of -- what he does for the County.

20 **Q All right. Based on his testimony, do you**
21 **believe he met the burden to support anticipated 2017**
22 **growth?**

23 A I think he has a lot of experience of what
24 kind of growth is going on in Monroe County. I think he
25 reviews building permits, or whatever kind of permits

1 that they go through to -- for growth, growth related,
2 growth management type expenses, and I think he
3 certainly has a whole lot more experience in that area
4 than I do. And, yes, I think it's reasonable to rely on
5 his testimony for that type of future growth.

6 Q Do you agree that a regulatory body is tasked
7 with fully vetting the evidence to support the utility's
8 request?

9 A Yes.

10 Q Do you believe the same standard should be
11 applied to the evidence available to support the
12 exceptionally high growth that is anticipated after the
13 wastewater treatment plant is complete?

14 A Can you repeat that one more time?

15 Q Do you believe the same standard should be
16 applied to the evidence that support the high growth
17 that is anticipated after the wastewater treatment plant
18 is complete?

19 A I believe -- yes, I believe the evidence in
20 the record should support any findings in this case.
21 But I ultimately believe, based on all my years of
22 experience with Commission staff and with Public
23 Counsel, that it's always the utility's burden to meet
24 its case, and to show that its requested growth and its
25 requested plant, requested customers are reasonable.

1 **Q And -- thank you.**

2 Just flip back to page seven of your direct
3 testimony. Same lines, one through 20.

4 **A Yes.**

5 **Q Based on the principle that there is a**
6 **reason -- based on the principle you reference in your**
7 **testimony on this page, is there a reason why you didn't**
8 **include plant additions unrelated to the plant expansion**
9 **in the calculation of your Phase II revenue requirement?**

10 **A I looked into that. There was some discovery**
11 **on that early on, but it didn't have amounts. It didn't**
12 **have dates of in-service. It -- I looked to the annual**
13 **report. I tried to figure out if there were material**
14 **items that were being added into any other accounts**
15 **other than structures and improvements, and I could not**
16 **find that information.**

17 And the majority -- based on my understanding,
18 and I heard earlier today that the utility recorded a
19 lot of their Last Stand litigation costs into structures
20 and improvements, and that is the account that took the
21 majority of the additions in 2015, and that's basically
22 why I just relied on the company's pro forma adjustment
23 for the Phase II plant. I also relied on the pro forma
24 adjustment for the vacuum storage tank that Witness
25 Woodcock recommended. Those were very material plant

1 additions.

2 **Q Thank you.**

3 Can you please turn now to page 21 and review
4 lines 12 through 24?

5 MR. SAYLER: What were those lines numbers
6 again?

7 MS. MAPP: 12 through 24.

8 MR. SAYLER: Thank you.

9 THE WITNESS: I am there.

10 BY MS. MAPP:

11 **Q Based on your concerns about the adjustment,**
12 **do you believe that annualizing depreciation expense**
13 **along with the corresponding adjustment to increase**
14 **accumulated depreciation, would be acceptable if CIAC**
15 **amortization expense was annualized along with a**
16 **corresponding adjustment to increase accumulated**
17 **amortization of CIAC?**

18 A No, I do not believe that would be
19 appropriate. It's a better alternative than what the
20 company did, but what the company has done is he
21 essentially take -- they have asked for a pro forma
22 year-end adjustment to plant, and then they have made
23 a -- and that's -- then they came in and they made a
24 year-end adjustment to reflect the depreciation expense
25 on the 2014 plant additions, essentially giving you a

1 year-end plant balance, year-end depreciation expense
2 balance, but nothing else has been adjusted to a
3 year-end.

4 And I think you have got to go back to the
5 test year concept. If the Commission requires an
6 average test year, then you set average plant, you set
7 average accumulated depreciation, average CIAC. You
8 can't pick and choose which ones want to be year-end,
9 not just the ones that go up.

10 Certainly, the Commission could use a year-end
11 rate base, and then you could use year-end revenues, and
12 year-end expenses. But that's -- if the -- if you keep
13 going with some are year-end and some are average, then
14 you have messed up the average test year concept, and
15 you have messed up matching.

16 And I also heard earlier today that matching
17 is not a regulatory concept, and it -- based on my
18 experience, it's been a regulatory concept since I
19 started in the '80s with the Commission. You want to
20 match the investment of the utility, with the cost of
21 the capital, with the average expenses of the utility
22 and the average bills in gallons so that you set a
23 revenue requirement on the same basis, so --

24 CHAIRMAN BROWN: Ms. Merchant, if you could
25 ask you to succinctly provide -- provide more

1 succinct answers.

2 Ms. Mapp, how many more questions do you have?

3 MS. MAPP: That was actually our last
4 question.

5 CHAIRMAN BROWN: Thank you.

6 All right. Commissioners any questions?
7 Redirect?

8 MR. SAYLER: Yes, ma'am. I have a few
9 questions on redirect.

10 FURTHER EXAMINATION

11 BY MR. SAYLER:

12 **Q Ms. Merchant, you were asked a number of**
13 **questions about page seven of your testimony.**

14 A Yes.

15 **Q And when it comes to the Commission's policy**
16 **on matching, is there another witness in this proceeding**
17 **who can also testify to that policy?**

18 A Mr. Terry Deason also testifies to that issue.

19 **Q Also, you were asked questions about the**
20 **potential for under-earnings by the utility if you**
21 **updated the revenue in gallons sold, and things of that**
22 **nature, do you recall those questions?**

23 A Yes.

24 **Q And if any utility found itself in an**
25 **under-earnings situation, what remedies does a utility**

1 **have?**

2 A It has lots of remedies now. They even have
3 more this year than they did last year, because they
4 have more avenues to ask for pass-through adjustments.
5 They have an index adjustment. They have a limited
6 proceeding. And if they want -- the flip side of that
7 is if the -- if they appear to be over-earning, those
8 revenues are never held subject to refund. The
9 customers have actually lost the over-earnings for that
10 timeframe.

11 Over-earnings -- possible refunds for any
12 over-earnings start on a prospective basis, and they may
13 never actually get recovery of any over-earnings from a
14 historical period if the revenues are not held subject
15 to refund.

16 **Q And those alternate proceedings that you**
17 **mentioned, the pass-throughs and things of that nature,**
18 **those are potentially less costly than a full blown rate**
19 **case?**

20 A Certainly, most the index in the past, they
21 certainly are.

22 **Q Do you recall getting a lot of questions about**
23 **the utility's rate case expense that you were**
24 **questioned?**

25 A Yes, I do.

1 Q What is your opinion of all those questions?
2 Do you believe that the utility is concerned that they
3 have excessive rate case expense, and they are afraid of
4 a disallowance?

5 A I am not sure what their concern is on that,
6 but I think that the Commission is tasked with actually
7 looking at all of the invoices, and to make sure that
8 they are reasonable and prudent to be recovered through
9 rate case expense.

10 Q And you were asked some questions about the
11 motion to compel responses?

12 A Correct.

13 Q And you were also asked some questions about
14 how -- about the Office of Public Counsel, why we didn't
15 supplement our discovery responses, do you recall that?

16 A Correct.

17 Q Do you know whether the Florida Rules of Civil
18 Procedure require supplementing discovery responses?

19 A I have no idea.

20 Q Do you know whether the utility's witnesses
21 have bifurcated their roles in this proceeding? You
22 were asked a number of questions about their roles.

23 A The witnesses?

24 Q For the attorneys.

25 A It's my understanding a lot in the PAA

1 process, there was a lot of type duplication, and that
2 was what drove the PAA recommendation and the PAA order
3 position. Since the protest, there has been a lot of
4 separation -- more separation of duties. I noticed that
5 Mr. Friedman was not in most of the depositions, and
6 things like that.

7 Q All right. With regard to -- you were asked a
8 number of questions about the number of attorneys that
9 the County has, the number of attorneys Public Counsel
10 has, along with the number of attorneys that the utility
11 has; do you recall those?

12 A Yes.

13 Q In this case, who is paying for the County's
14 attorneys?

15 A The citizens of Monroe County, I presume.

16 Q All right. And I believe you testified
17 earlier that it's -- let me strike that question.

18 Do you remember being asked questions about
19 the miscellaneous service charges?

20 A Yes.

21 Q And I believe you testified something about
22 service rates being reduced from -- by the amount of
23 miscellaneous revenues -- I mean, do you recall?

24 A Yes, I recall.

25 Q Okay. So if the Commission goes with the

1 County's -- excuse me -- the utility's request for
2 increased revenues beyond what Ms. Swain supported in
3 her direct testimony, what should the Commission do with
4 the service rates? Should there be an offset to that,
5 or to the revenue requirement?

6 A It's my understanding that the Commission
7 practice is that the utility will not get higher
8 revenues than what they put in their original petition,
9 so the -- the revenue increase will be limited to the
10 amount requested.

11 Q But if the Commission were to approve higher
12 miscellaneous service charges -- and that's not the
13 position of the Public Counsel -- then the miscellaneous
14 service charges would be a bigger slice of the overall
15 revenue requirement, correct?

16 A That's correct.

17 Q And that would reduce the service rates to the
18 residential and general service customers, correct?

19 A Yes. I think that the -- if you substantially
20 increase the miscellaneous service charge revenues, that
21 you should make a reduction to the revenues that are
22 allocated to service rates so that you don't duplicate
23 that.

24 Q All right. And I believe this is my last
25 question.

1 You were asked some questions about the
2 utility infusing equity into the -- or using --
3 converting debt to equity, and infusing equity into the
4 capital structure; do you recall those questions?

5 A Yes.

6 **Q And that was done during the context of this**
7 **rate case, is that correct?**

8 A Yes. It was done in July, June -- maybe,
9 like, May and July and August and September --

10 **Q Now after --**

11 A Of 2016.

12 **Q Okay. Now, after the rate case concludes, is**
13 **there any prohibition from converting that equity back**
14 **to debt, or changing it?**

15 A No. I believe the utility can do whatever
16 they -- the management believes they can do.

17 **Q All right. Thank you very much, Ms. Merchant.**

18 CHAIRMAN BROWN: Thank you.

19 All right. Exhibits 23 through 31 are
20 attached, and I will note that PWM-5, which is
21 Exhibit 27, is actually the errata sheet that we
22 marked as 97, Mr. Saylor. So looking at it, it's
23 exactly -- it's the first sheet on PWM-5.

24 MR. SAYLER: PWM-5?

25 CHAIRMAN BROWN: I have an errata sheet there.

1 MR. SAYLER: Okay. I will take your word for
2 it that it's the same.

3 CHAIRMAN BROWN: Yeah.

4 MR. SAYLER: But in the abundance of caution,
5 if you wouldn't mind still moving in Exhibits 23
6 through 31, along with the --

7 CHAIRMAN BROWN: 97?

8 MR. SAYLER: -- 97, yes, ma'am.

9 CHAIRMAN BROWN: Okay. Any objection?

10 Seeing none, we will go ahead and move into
11 the record 23 through 31, and along with Exhibit
12 97.

13 (Whereupon, Exhibit Nos. 23-31 and 97 were
14 received into evidence.)

15 CHAIRMAN BROWN: Staff, you have an Exhibit 98
16 for this witness.

17 MS. MAPP: Yes. We would seek to enter that
18 into the record.

19 CHAIRMAN BROWN: Is there any objection?

20 MR. SAYLER: No objection.

21 CHAIRMAN BROWN: Seeing none, we will go ahead
22 and move into the record 98.

23 (Whereupon, Exhibit No. 98 was received into
24 evidence.)

25 CHAIRMAN BROWN: Ms. Merchant, would you like

1 to leave, or are you going to hang out here?

2 THE WITNESS: I am here, but thank you.

3 CHAIRMAN BROWN: All right. You are excused.

4 MR. SAYLER: Thank you, Madam Chairman.

5 (Witness excused.)

6 CHAIRMAN BROWN: We have about 15 minutes or
7 so before we have to adjourn, or recess prior to
8 the service hearing. I am going to try to continue
9 to motor along. I just wanted to give you an
10 overview, and with that, the County, if you would
11 like to call your first witness.

12 MR. WRIGHT: Thank you, Madam Chairman.

13 Monroe County calls Kevin G. Wilson.

14 CHAIRMAN BROWN: Thank you. Mr. Wilson.

15 And Mr. Wilson, I want to thank you for these
16 facilities, and for cooling the temperature down,
17 and taking care of us up here. Thank you.

18 THE WITNESS: You are certainly welcome. And
19 welcome to Monroe County, because nobody has
20 apparently welcomed you.

21 CHAIRMAN BROWN: That's nice. Thank you.

22 It's great to be here.

23 Whereupon,

24 KEVIN G. WILSON

25 was called as a witness, having been previously duly

1 sworn to speak the truth, the whole truth, and nothing
2 but the truth, was examined and testified as follows:

3 CHAIRMAN BROWN: Mr. Wright.

4 MR. WRIGHT: Thank you, Madam Chairman.

5 EXAMINATION

6 BY MR. WRIGHT:

7 Q Mr. Wilson, you were present this morning,
8 were you not?

9 A I was.

10 Q And you took the oath to tell the truth?

11 A I did.

12 Q Great. Are you same the Kevin G. Wilson who
13 prepared and caused to be filed in this proceeding
14 prefiled direct testimony consisting of 37 pages?

15 A I am.

16 Q And do you have any changes or corrections to
17 make to that prefiled testimony?

18 A No, sir.

19 Q If I were to ask you the same questions
20 contained therein today, would you your answers be
21 substantially the same?

22 A Yes, sir.

23 Q You adopt this as your sworn testimony into
24 the Florida Public Service Commission in this
25 proceeding?

1 A I do.

2 MR. WRIGHT: Madam Chairman, I request that
3 Mr. Wilson's prefiled direct testimony be entered
4 into the record as though read.

5 CHAIRMAN BROWN: We will enter Mr. Wilson's
6 prefiled direct testimony into the record as though
7 read.

8 MR. WRIGHT: Thank you, Madam Chairman.

9 (Prefiled testimony inserted into the record
10 as though read.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 150071-SU,

KW RESORT UTILITIES CORPORATION RATE CASE

DIRECT TESTIMONY OF KEVIN G. WILSON, P.E.

September 14, 2016

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION.**

2 A. My name is Kevin G. Wilson, and my business address is 1100 Simonton St.,
3 Key West, FL 33040. I am employed by Monroe County as Assistant County
4 Administrator in charge of Public Works and Engineering. I also serve as the
5 County Engineer.

6
7 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS DOCKET?**

8 A. I am testifying on behalf of the Board of County Commissioners of Monroe
9 County, Florida. To the best of my knowledge, Monroe County is the largest
10 customer of K W Resort Utilities Corp., the utility seeking rate increases in this
11 proceeding.

12
13 **Q. PLEASE DESCRIBE YOUR EDUCATION AND EXPERIENCE.**

1 A. I have a Bachelor's Degree in Engineering from Carnegie Mellon University. A
2 copy of my resume' is provided as Exhibit KGW-1 to my testimony.

3 I have worked for Monroe County since July 2006. I was promoted into my
4 current position of Assistant County Administrator in charge of Public Works and
5 Engineering in 2015. In my current position, I am responsible for oversight of the
6 following areas: Wastewater, specifically including oversight of design,
7 construction, and funding of the centralized wastewater system in the Florida
8 Keys that is owned by Monroe County and operated by the Florida Keys
9 Aqueduct Authority; Project Management; Engineering, including construction
10 and maintenance of Roads and Bridges; Solid Waste programs; Solid Waste
11 Operations; and Fleet Management. I have responsibility for overall
12 management of all capital construction for the County, which includes buildings,
13 sewers, roads and bridges. I oversee a staff of approximately 155 people and
14 supervise annual budgets in the amount of approximately \$40 million in
15 operation expenses and \$90 million in capital expenditures. I am also the senior
16 engineering manager for the County (the County Engineer). Prior to my current
17 position, from October 2011 until April 2015, I was a Division Director for
18 Monroe County in charge of Public Works and Engineering. My responsibilities
19 and duties were essentially the same then as in my current position. Prior to
20 October 2011, I was the Director of Project Management and Engineering. My

1 responsibilities and duties in that capacity included oversight of all County road
2 and building construction.

3 From 2003 to 2005, I was a contract employee with the Federal Government
4 working with the U.S. Army. I am also a retired Lieutenant Colonel with the
5 Army Reserve.

6 Prior to that, from approximately 1994 to 2003 I worked with two companies
7 based in Austria. In that capacity, I developed and executed engineering
8 projects, including nuclear engineering and other power generation and
9 environmental cleanup projects, in the Middle East, Western Europe, Eastern
10 Europe and the former Soviet bloc countries, including Russia.

11 Prior to that, I worked with a company in Korea, and prior to that time, I
12 worked with Procter & Gamble for approximately 17 years.

13

14 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE FLORIDA PUBLIC**
15 **SERVICE COMMISSION (“COMMISSION” OR “PSC”)?**

16 A. No.

17

18 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY IN ANY ECONOMIC,**
19 **ENVIRONMENTAL, LAND USE, OR SIMILAR REGULATORY OR PERMITTING**
20 **PROCEEDINGS RELATING TO WATER SERVICE, WASTEWATER OR SEWAGE**
21 **TREATMENT SERVICE, OR THE PROVISION OF REUSE WATER SERVICE?**

1 A. Yes. I have previously testified in four (4) cases regarding wastewater service in
 2 Monroe County, including depositions, administrative hearings, and circuit court
 3 trials. A list of these cases is attached as Exhibit KGW-2.

4

5 **Q. DO YOU HOLD ANY PROFESSIONAL CERTIFICATIONS?**

6 A. I am a Registered Professional Engineer, licensed to practice in Florida and Ohio.

7

8 **Q. ARE YOU SPONSORING ANY EXHIBITS WITH YOUR TESTIMONY?**

9 A. Yes, I am sponsoring the following exhibits:

KGW-1	Resumé of Kevin G. Wilson, P.E.
KGW-2	List of prior testimonies
KGW-3	Aerial Photo of Stock Island
KGW-4	South Stock Island 2010 Census Information
KGW-5	2010-2014 American Community Survey, 5 Year Estimates
KGW-6	2000 Monroe County Sanitary Master Wastewater Plan – “Hot Spot” Excerpt, Exh. 6-1
KGW-7	Monroe County Code, Section 20-102
KGW-8	List of General Service Customers by Meter Size
KGW-9	Excerpt from KWRU Stock Island WWTP, Public Utility Appraisal Report, Effective Date: December 31, 2014, Report Date January 2015
KGW-10	Projected 2017 Flows from Residential & Commercial Properties Being Developed or Existing but not yet Connected

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PURPOSE AND SUMMARY OF TESTIMONY

Q. PLEASE SUMMARIZE YOUR DUTIES AND RESPONSIBILITIES IN YOUR CURRENT POSITION AS THEY RELATE TO WASTEWATER SERVICE ON STOCK ISLAND. PLEASE INCLUDE A SUMMARY OF ANY PRIOR EXPERIENCE THAT ALSO INVOLVED DUTIES AND RESPONSIBILITY WITH RESPECT TO WASTEWATER SERVICE ON STOCK ISLAND.

A. I have worked for Monroe County since July 2006. With regard to wastewater service on Stock Island, in my current position, I am responsible for oversight of wastewater collection and treatment, specifically including oversight of design, construction, and funding of the centralized wastewater systems in the Florida Keys that are owned by Monroe County and operated by the Florida Keys Aqueduct Authority. My duties and responsibilities as Monroe County's Assistant County Administrator necessarily include being familiar with the history of the County's contractual relationship with K W Resort Utilities Corp. ("KWRU") dating back to 2001, when the County entered into a certain "Utility Agreement" with KWRU, pursuant to which the County is KWRU's customer for wastewater treatment service for County facilities on Stock Island. In particular, I am familiar with the certain "Capacity Reservation and Infrastructure Contract" dated July 31, 2002, between the County and KWRU. In that Agreement, the County agreed to pay KWRU up to \$4.6 million in order to enable KWRU to construct the

1 wastewater collection system on South Stock Island, in return for which the
2 County received 1,500 Equivalent Dwelling Units (“EDUs,” also referred to as
3 Equivalent Residential Connections or “ERCs”) of reserved capacity on KWRU’s
4 system. I am also familiar with subsequent agreements between the County and
5 KWRU. In addition, I am familiar with the County’s payment of KWRU’s rates as
6 a customer for wastewater treatment services and reuse water service on North
7 and South Stock Island. In addition, my duties necessarily include being familiar
8 with economic and population growth, potable water and wastewater treatment
9 requirements for existing and new residential and commercial establishments,
10 and related matters throughout the County, including on North and South Stock
11 Island.

12
13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. My testimony covers three areas. First, my testimony provides factual
15 information regarding the numbers of existing residential, commercial, and
16 industrial water users on Stock Island that are required to connect to KWRU’s
17 system as soon as possible by those statutes and regulations, and also regarding
18 the projected numbers of new customers that are likely to connect to KWRU’s
19 system within the first twelve months following the date on which KWRU’s new
20 wastewater treatment plant begins providing commercial service. Based on
21 projections of new customers, and using standard usage amounts for residential

1 and general service customers, I provide information regarding the number of
2 additional gallons of wastewater treatment KWRU can reasonably be projected
3 to provide to the customers who connect to its system over this time period. I
4 also provide information regarding the County's use of reuse water on Stock
5 Island.

6 Second, my testimony explains the requirements for all existing and new
7 water users on Stock Island to connect to the wastewater treatment system of
8 KWRU as soon as practicable. These requirements are mandated by Florida
9 Statutes and also by regulations of Monroe County and the Florida Department
10 of Environmental Protection ("FDEP").

11 Third, my testimony describes the history of the contractual relationships
12 between KWRU and Monroe County, and explains the payment of contributions
13 in aid of construction, sometimes also called capacity reservation fees, to KWRU.

14

15 **Q. PLEASE SUMMARIZE THE MAIN CONCLUSIONS OF YOUR TESTIMONY.**

16 A. Based on my knowledge of the applicable statutory and regulatory
17 requirements, my knowledge of the numbers of existing residential units and
18 general service establishments (commercial units), and also on my knowledge of
19 the expected new residential and general service establishments that have been
20 permitted for occupancy since April 1, 2016 and that I expect to be permitted for
21 occupancy between now (September 2016) and the period ending twelve

1 months after KWRU's new wastewater treatment plant comes on line, KWRU will
2 be required to connect approximately 15 existing and new residential units in
3 the vacuum area and up to 279 other residential units to its system as a whole,
4 and approximately 22 existing and new general service establishments to its
5 system, in the remainder of 2016, 2017, and the first quarter of 2018 [within the
6 first year of KWRU's new wastewater treatment plant's operation]. Applying
7 standard usage amounts to these projected units, I estimate that KWRU can be
8 expected to have to treat 207,215 additional gallons of wastewater per day, over
9 and above the amounts that KWRU treated in 2015 (which was 461,723 gallons
10 per day), over this period.

11 Finally, I believe that KWRU will likely be able to sell additional amounts of
12 reuse water as soon as its new wastewater treatment plant comes on-line. My
13 best estimate of such additional sales is approximately an additional 9-10 million
14 gallons in 2017 and an additional 5.8 million gallons per year (over and above the
15 increase of 9-10 million gallons for 2017) on an ongoing basis in 2018 and
16 beyond based on the anticipated completion of the Bernstein Park
17 redevelopment in summer of 2017 and its use of reclaimed water for irrigation.

18
19 **STOCK ISLAND AND KWRU'S SYSTEM**

20 **Q. PLEASE DESCRIBE STOCK ISLAND, ITS POPULATION AND DEMOGRAPHIC**
21 **CHARACTERISTICS, ITS STATE OF DEVELOPMENT, DEVELOPMENT PROSPECTS,**

1 **AND OTHER CHARACTERISTICS THAT ARE PERTINENT TO THE DEMAND FOR**
2 **WASTEWATER TREATMENT SERVICE ON STOCK ISLAND.**

3 A. Stock Island is an island immediately east or northeast of Key West as one heads
4 toward mainland Florida. Please see Exhibit KGW-3 to my testimony, which is an
5 aerial photograph of Stock Island.

6 U.S. 1 divides Stock Island into what are commonly referred to as “North
7 Stock Island” and “South Stock Island.” North Stock Island is part of the City of
8 Key West, and is generally characterized by upscale development, including a
9 golf course at the Key West Golf Club, and institutional facilities. The
10 institutional facilities include Florida Keys Community College, the Lower Keys
11 Medical Center, the Tennessee Williams Theatre, the Monroe County Sheriff’s
12 office, jail and Juvenile Detention Center, and others.

13 South Stock Island, on the other hand, is part of unincorporated Monroe
14 County. South Stock Island is also a “census-designated place” (“CDP”) for which
15 the U.S. Census Bureau collects and reports demographic data. The population
16 of the Stock Island CDP was 3,807 in the 2010 U.S. Census, with 1,658 housing
17 units at that time.

18 In comparison to North Stock Island, residences on South Stock Island have
19 until recently generally been small single family homes, mobile homes,
20 manufactured housing, apartments, condominiums, and marinas. Each boat slip
21 at most or all of the marinas is required to have sewerage service. The

1 commercial or general service facilities on South Stock Island include fishing and
2 other maritime businesses, general commercial and light industrial
3 establishments, including KWRU's wastewater treatment plant, boat repair and
4 other maritime industrial facilities, and similar businesses. Although it may not
5 be clear from the aerial photo in Exhibit KGW-3, many of the single family
6 residences on South Stock Island are very small, which is indicative of the
7 generally lower-income status of most of the population on South Stock Island.

8 Exhibit KGW-4 to my testimony is information from the 2010 U.S. Census
9 data. The column marked "SSI & Key Haven" shows population information for
10 the entire census tract 9718, which includes both South Stock Island and Key
11 Haven. Key Haven is an upscale community north of South Stock Island (across
12 U.S. 1) and slightly to the east. The four columns on the right show the
13 breakdown between South Stock Island and Key Haven. The chart shows that
14 South Stock Island has a much higher occupancy rate and a much higher
15 percentage of renters than the rest of the Lower Keys. (The Lower Keys are
16 those islands from Key West to Big Pine Key, inclusive; the Keys northeast from
17 Big Pine are referred to as the Middle Keys.)

18 Attached as Exhibit KGW-5 to my testimony is information about the Stock
19 Island CDP from the 2010-2014 American Community Survey, 5 Year Estimates.
20 The median household income on South Stock Island is \$41,799 and the median
21 housing value is \$236,700. On South Stock Island, 17.2% of the population lives

1 below the poverty level, compared to 12.6% in the City of Key West and 13.9% in
2 Monroe County as a whole. By way of contrast, the median household income in
3 the City of Key West is \$54,306, and the median housing value is \$430,900 (82%
4 higher than the Stock Island CDP).

5

6 **Q. PLEASE DESCRIBE MONROE COUNTY'S FACILITIES ON STOCK ISLAND AND THEIR**
7 **USAGE OF WASTEWATER TREATMENT SERVICE AND REUSE WATER PROVIDED**
8 **BY KWRU.**

9 A. To the best of my knowledge, Monroe County is KWRU's largest customer by
10 volume of wastewater treatment service purchased and by revenues. Major
11 County facilities served by KWRU include the Monroe County Sheriff's Office;
12 Monroe County Detention Center (commonly known as the Monroe County Jail)
13 and Juvenile Detention Center; Bayshore Manor (a County-owned and operated
14 Assisted Living Facility); the Stock Island fire station, and the Society for the
15 Prevention of Cruelty to Animals (SPCA) animal shelter. The Monroe County
16 School District also operates the Gerald Adams Elementary School on North
17 Stock Island.

18 In addition to wastewater service, Monroe County also purchases substantial
19 amounts of reuse water from KWRU, primarily for use at the Monroe County Jail
20 and Juvenile Detention Center. The County purchased approximately 830,000
21 gallons of reuse water in the last four (4) months of 2014, approximately 3.9

1 million gallons of reuse water in 2015, and approximately 3.2 million gallons of
2 reuse water in the first seven (7) months of 2016. I expect that total County
3 reuse water purchases in 2016 will be between 5 and 6 million gallons, and that
4 this figure will increase substantially as soon as additional reuse water is
5 available from KWRU's new WWTP.

6

7 **Q. PLEASE DESCRIBE THE NATURE OF THE COUNTY'S CONTRACTUAL**
8 **RELATIONSHIPS WITH KWRU.**

9 A. Beginning in 2001, with the 2001 Utility Agreement, the County entered into a
10 series of contracts with KWRU to pay for design and construction of KWRU's
11 wastewater system on South Stock Island. KWRU is and at all times relevant has
12 been the only wastewater utility serving South Stock Island. The County's
13 objective in entering into these agreements was to expedite connection of
14 properties to the central wastewater system, in order to comply with Chapter
15 99-395, Laws of Florida. Section 6 of that law required all sewage treatment
16 and disposal facilities and all onsite sewage treatment and disposal systems
17 (defined to include cesspits and septic tanks) in Monroe County to cease
18 discharge and comply with applicable FDEP or Florida Department of Health
19 ("FDOH") treatment requirements by **June 30, 2010**. Ch. 99-395 was
20 subsequently codified in Section 403.086 of the Florida Statutes. As of 2010,
21 that statute, as amended since 1999, required – and *requires* – all wastewater

1 collection, treatment and disposal facilities in any portion of the County
2 designated as a "hot spot" in the County's Sanitary Master Wastewater Plan
3 dated June 2000 to be completed by **December 31, 2015**. A copy of Exhibit 6-1
4 from the Sanitary Master Wastewater Plan showing Stock Island to be
5 designated as a "hot spot" is attached to this testimony as Exhibit KGW-6. Thus,
6 the County's objective in entering into the series of contracts with KWRU was to
7 facilitate the completion of the wastewater system and connection of
8 properties within the KWRU's boundaries to its system.

9 In 2002, the County entered into a Capacity Reservation and Infrastructure
10 Contract with KWRU, dated July 31, 2002 (the "2002 CRI Contract"). In this
11 agreement, the County agreed to pay up to \$4.6 million to KWRU in monthly
12 installments. In return, the County received 1,500 Equivalent Dwelling Units of
13 capacity. The agreement also provided that KWRU would collect capacity
14 reservation fees from the customers who were signing up, at \$2,700 per
15 capacity reservation fee ("CRF," also commonly referred to as Service
16 Availability Charges and Plant Capacity Charges), and would turn the CRFs over
17 to the County to repay the funds.

18 However, the 2002 CRI Contract also provides that KWRU agreed to convert
19 its system to AWT standards by January 1, 2007 if requested, and if it did so, the
20 cost of conversion would be paid by allowing KWRU to keep \$600 out of each
21 CRF that it collected. On December 18, 2002, the County passed a resolution

1 officially requesting the utility to convert to AWT. On June 21, 2006, the Board
2 of County Commissioners approved the payment of \$707,000 to KWRU as a
3 lump sum payment, in lieu of requiring KWRU to take \$600 out of each CRF as it
4 was collected.

5 In addition to the above, on January 15, 2003, the County entered into an
6 agreement whereby it paid KWRU a further \$134,822 as additional financial
7 support for construction of the South Stock Island sewer system.

8 Also, in April 2013, KWRU filed a Complaint before the Public Service
9 Commission (Docket No. 130086-SU), in which KWRU requested a declaratory
10 statement regarding whether KWRU was entitled to collect capacity reservation
11 fees from the County for 220.27 ERCs in excess capacity used by the County, as
12 provided in the 2001 agreement, and whether KWRU was entitled to collect
13 construction costs (that had been disallowed by the County's Clerk). I was
14 actively involved in the case. In December 2013, the parties agreed to settle the
15 case. The County paid \$500,000 to KWRU to settle claims filed by KWRU in
16 Public Service Commission Docket No. 130086-SU. In the settlement, the
17 parties agreed that the payment included payment for 220.27 additional
18 Equivalent Residential Connections.

19 Including all of the above, our records show that the County has paid a total
20 of \$6.3 million to KWRU in capacity reservation fees and construction costs.

1

2 **Q. PLEASE SUMMARIZE YOUR KNOWLEDGE OF KWRU'S SYSTEM ON STOCK**
3 **ISLAND.**

4 A. I'm most familiar with the vacuum collection system commissioned in 2002 by
5 the County but have some general knowledge about the layout and components
6 of KWRU's entire system. The KWRU system is comprised of a single wastewater
7 treatment plant located on Front Street on South Stock Island, collection systems
8 on both North and South Stock Island, and a water reuse supply system from the
9 wastewater treatment plant to reuse water customers. The collection system on
10 South Stock Island utilizes gravity, vacuum, and force mains. The gravity
11 collection system on South Stock Island is comprised partially of the
12 neighborhood known as Lincoln Gardens plus several other streets on the
13 northwest side of South Stock Island. The vacuum system serves most of the
14 northeast and southeast portions of South Stock Island. Several properties on
15 South Stock Island are served by force mains including properties known as
16 Boyd's Campground, Roy's Trailer Park, Sloan's Landing, and several other
17 properties. A force main system delivers wastewater from North Stock Island to
18 the treatment plant. The water reuse system provides treated reclaimed water
19 to several users on North Stock Island, including the Monroe county Jail and the
20 golf course.

1 KWRU is presently constructing a new wastewater treatment plant ("New
2 WWTP") that is expected to add 350,000 gallons per day of treatment capacity
3 to its system. If completed as projected, the New WWTP will bring KWRU's total
4 treatment capacity to 849,000 gallons per day. KWRU representatives have
5 stated to me that the New WWTP is scheduled to come on-line in March 2017.
6

7 **Q. WHEN WAS KWRU OBLIGATED TO MEET ADVANCED WASTEWATER**
8 **TREATMENT STANDARDS?**

9 A. As noted previously by the Public Service Commission in the utility's last
10 application for a rate increase, in 2002 the County and KWRU agreed (in the
11 2002 CRI Contract) that KWRU would convert its system to AWT standards by
12 January 1, 2007. (This is reflected at page 4 of the PSC's Order No. 09-0057-FOF-
13 SU, titled "Final Order Requiring Partial Refund and Granting In Part and Denying
14 In Part Wastewater Rate Increase," issued by the PSC in Docket No. 070293-SU
15 on January 27, 2009. The County did not intervene in the 2007 rate case.) In or
16 about June 2006, the County paid approximately \$707,000 to KWRU to expedite
17 the conversion.

18 In the utility's last (2007) rate case, the utility applied for a rate increase and
19 increases were approved in part based on the representation of the utility's
20 President that rate increases were necessary as a result of increased operating
21 costs related to advanced wastewater treatment that was already underway and

1 was expected to go online, on October 1, 2007. This is shown at pages 1 and 4-6
2 of the Direct Testimony of William L. Smith, submitted as Exhibit F to KWRU's
3 Application for Increase in Rates in Monroe County, in PSC Docket No. 070293-
4 SU, also identified as PSC Document No. 07-06672 on the Commission's website.
5 We were informed by Chris Johnson of KWRU that the utility started operating
6 to AWT standards in November or December 2015.

7

8 **Q. WHAT IS YOUR UNDERSTANDING OF THE PERMIT THAT WAS RECENTLY ISSUED**
9 **TO KWRU BY THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,**
10 **DOMESTIC WASTEWATER TREATMENT PLANT PERMIT FLA014951-012-DWIP**
11 **AND UIC PERMITS 18490-020 AND -021, WITH RESPECT TO THE CHANGE TO**
12 **PERMITTED CAPACITY OF THE PLANT?**

13 A. The permit allows KWRU to increase its permitted capacity from 499,000 gallons
14 per day to 849,000 gallons per day (average annual daily flow).

15

16 **Q. HOW DOES THAT TRANSLATE TO EQUIVALENT RESIDENTIAL UNITS?**

17 A. Using an equivalency factor of 167 gallons/day/EDU, this total capacity would
18 equate to 5,083.8 EDUs or ERCs.

19

20 Monroe County Code section 20-102, which applies to all wastewater utilities
operating in Monroe County, defines an equivalent dwelling unit as 167 gallons
21 per day and a recreational vehicle unit as 75 gallons per day. The ordinance also

1 states that an equivalent dwelling unit (EDU) is equivalent to an equivalent
2 residential connection (ERC). A copy of the Monroe County Code section 20-102
3 is attached to this testimony as Exhibit KGW-7. So the wastewater flow for a
4 single family residence is calculated using 167 gallons per day. This figure was
5 also used by Monroe County in its 2000 Wastewater Master Plan.

6 I note however that the utility has used the figure of 205 gallons per day in
7 its testimony. Using this figure, total treatment capacity equates to 4,141.5 ERCs
8 at the rate of 205 gal/day/ERC. Page S-13 of KWRU's 2015 Annual Report to the
9 PSC states that KWRU can presently serve 3,300 ERCs and that it will be able to
10 serve 6,071 ERCs "upon service area buildout."

11

12 **Q. WHAT IS YOUR UNDERSTANDING AS TO WHEN KWRU'S EXPANDED CAPACITY**
13 **IS SCHEDULED TO COME ON-LINE?**

14 A. Bart Smith and Chris Johnson of KWRU have advised me and other County
15 personnel that the expansion of the treatment plant will come on-line in March
16 2017. The utility also uses this date in its 2015 Annual Report.

17

18 **Q. HOW MANY EXISTING RESIDENTIAL UNITS ARE THERE ON STOCK ISLAND? TO**
19 **THE EXTENT POSSIBLE, PLEASE IDENTIFY THE DIFFERENT TYPES OF RESIDENTIAL**
20 **UNITS ON STOCK ISLAND.**

1 A. All of the KWRU customers receive their water from Florida Keys Aqueduct
2 Authority (FKAA). FKAA reports 1,857 total accounts on Stock Island as of
3 9/12/2016. Of these, 1,656 are residential accounts (1,923 units) and 201 are
4 non-residential, which includes commercial and marinas. Monroe County
5 Property Appraiser records show that of the 1,923 residential units, 811 are
6 single family residences, 344 are marinas (including boat slips), 347 are mobile
7 homes, and the remainder (421) are condominiums and multi-family housing.

8

9 **Q. HOW MANY OF THESE EXISTING RESIDENTIAL UNITS ARE CURRENTLY**
10 **ACTUALLY CONNECTED TO KWRU'S SYSTEM?**

11 A. Based on information provided in KWRU's 2015 Annual Report to the Florida
12 Public Service Commission, KWRU had 1,644 residential customers and 177
13 commercial customers as of December 31, 2015. Therefore, I conclude that
14 there were approximately 1,644 residential units receiving wastewater
15 treatment service from KWRU as of that date.

16 For perspective, in 2014, KWRU submitted information in a permit challenge
17 case filed in the Division of Administrative Hearings, stating that it had 1,416
18 residential customers and 216 commercial customers. *See Recommended*
19 *Order, Last Stand v. KW Resort Utilities Corp. et al., State of Florida Div. of*
20 *Admin. Hearings, DOAH Case No. 14-5302 (Jan. 15, 2016), ¶ 14.* KWRU's 2014
21 Annual Report filed with the PSC showed 1,598 residential customers as of

1 December 31, 2015. Therefore, clearly residential customer accounts have
2 grown since December 31, 2014.

3

4 **Q. FROM THE ABOVE INFORMATION, IS IT CORRECT THAT THERE ARE**
5 **APPROXIMATELY 300 EDUs (ON 24 PARCELS) WITHIN KWRU'S SERVICE AREA**
6 **THAT ARE NOT ACTUALLY CONNECTED TO KWRU'S SYSTEM?**

7 A. Yes.

8

9 **Q. AND IS IT ALSO CORRECT THAT THESE RESIDENTIAL UNITS HAVE BEEN**
10 **REQUIRED TO BE CONNECTED TO KWRU'S SYSTEM SINCE DECEMBER 31, 2015?**
11 **IF SO, HOW MUCH ADDITIONAL WASTEWATER SERVICE CAN THESE**
12 **RESIDENTIAL UNITS BE EXPECTED TO REQUIRE FROM KWRU?**

13 A. Yes, this is correct. Using the Utility's standard value of 205 gallons per day per
14 ERC, this would translate to approximately 15.0 million gallons per year; using
15 the alternate value of 167 GPD per ERC would translate to approximately 12.2
16 million gallons per year.

17

18 **Q. DO YOU HAVE AN OPINION AS TO WHEN IT IS REASONABLY LIKELY THAT THESE**
19 **CUSTOMERS WILL ACTUALLY BE CONNECTED TO AND RECEIVING SERVICE**
20 **FROM KWRU'S WASTEWATER SYSTEM?**

1 A. Yes. Considering that this is a mandate pursuant to State statutes, my opinion is
2 that these customers will be connected as soon as is reasonably practical
3 following the in-service date of KWRU's new treatment plant. If KWRU's
4 projected in-service date of March 2017 for its new treatment plant is accurate, I
5 would expect that the vast majority of these customers should be connected and
6 receiving service by the end of June 2017, and that all or virtually all (more than
7 95 percent) of them should be receiving service by the end of September 2017.

8

9 **Q. HOW MANY EXISTING COMMERCIAL ESTABLISHMENTS ARE THERE ON STOCK**
10 **ISLAND?**

11 A. Florida Keys Aqueduct Authority (FKAA) supplies water to all residential and non-
12 residential consumers on Stock Island. FKAA reports 1,857 total accounts on
13 Stock Island as of September 12, 2016. Of these, 201 are non-residential, which
14 includes commercial and marinas.

15

16 **Q. HOW MANY OF THESE EXISTING COMMERCIAL UNITS ARE ACTUALLY**
17 **CONNECTED TO KWRU'S SYSTEM?**

18 A. Based on information provided in KWRU's 2015 Annual Report to the Florida
19 Public Service Commission, KWRU had 177 general service customers as of
20 December 31, 2015. See Exhibit KGW-8, which lists the number of general
21 service customers by meter size. Therefore, I conclude that there were

1 approximately 177 commercial establishments receiving wastewater treatment
2 service from KWRU as of that date.

3

4 **Q. FROM THE ABOVE INFORMATION, IS IT CORRECT THAT THERE ARE**
5 **APPROXIMATELY 24 COMMERCIAL BUSINESSES WITHIN KWRU'S SERVICE AREA**
6 **THAT ARE NOT ACTUALLY CONNECTED TO KWRU'S SYSTEM?**

7 A. Yes.

8

9 **Q. PLEASE DESCRIBE AND EXPLAIN ANY LEGAL OR REGULATORY REQUIREMENTS**
10 **FOR EXISTING RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL WATER USERS**
11 **THAT ARE NOT PRESENTLY CONNECTED TO KWRU'S SYSTEM TO BE**
12 **CONNECTED? PLEASE BE AS SPECIFIC AS POSSIBLE.**

13 A. For purposes of this discussion, it is important to understand that Stock Island is
14 in the Florida Keys, which is an "Area of Critical State Concern" designated by the
15 Florida Legislature. It is also important to recognize that the requirements to
16 connect to KWRU's system apply not only to new residential customers and
17 businesses, but also to existing customers and businesses. Section
18 403.086(10)(b), Florida Statutes, which Monroe County is responsible for
19 implementing, requires that the County, as well as all municipalities and special
20 sewage districts in Monroe County "shall complete the wastewater collection,
21 treatment, and disposal facilities within its jurisdiction designated as hot spots in

1 the Monroe County Sanitary Master Wastewater Plan, dated June 2000,” and
2 that the “required facilities and connections, and any additional facilities or
3 other adjustments required by rules adopted by the Administration Commission
4 under s. 380.0552, must be completed by December 31, 2015.”

5 In the referenced Monroe County Sanitary Master Wastewater Plan, the
6 “Unsewered K.W. Resort Utility Resort Area” is the highest ranked “hot spot” in
7 the Lower Keys area and the number-3-ranked hot spot for the entire Florida
8 Keys. Exhibit KGW-6 to my testimony is a copy of EXHIBIT 6-1 to that Plan, which
9 is a listing of the hot spots in the Lower Florida Keys, with rankings by order of
10 significance. Stock Island is the most critical area in the Lower Keys.

11
12 **Q. WHEN ARE THOSE UNITS THAT ARE NOT PRESENTLY CONNECTED TO KWRU**
13 **REQUIRED TO BE CONNECTED FOR WASTEWATER TREATMENT SERVICE?**

14 A. The applicable statutes and regulations require that ALL existing residential and
15 general service establishments had to be connected to KWRU’s system as of
16 December 31, 2015, i.e., more than eight months ago. This means that all of the
17 residences and commercial establishments on Stock Island that are not presently
18 connected to KWRU’s system must connect as soon as capacity exists to serve
19 them, subject to KWRU completing each physical connection. In practical terms,
20 I believe that all such facilities are required by County ordinance to be connected
21 to KWRU’s system within 30 days following completion of KWRU’s new

1 treatment plant. Monroe County will take all reasonable and practicable steps
2 to ensure compliance with the statutes and its Sanitary Master Wastewater Plan.

3

4 **Q. ARE THERE SIMILAR REQUIREMENTS THAT APPLY TO NEW AND EXPANDED**
5 **RESIDENCES AND COMMERCIAL ESTABLISHMENTS IN KWRU'S SERVICE AREA?**

6 A. Yes. Section 403.086(10)(c), Florida Statutes, requires that "After December 31,
7 2015, all new or expanded domestic wastewater discharges must comply with
8 the treatment and disposal requirements" of the statute. In practical terms, this
9 means that all new residences and commercial establishments on Stock Island
10 must be connected to KWRU's system in order to obtain a certificate of
11 occupancy.

12

13 **Q. DOES MONROE COUNTY HAVE ANY PROGRAMS TO ASSIST EXISTING WATER**
14 **USERS ON STOCK ISLAND IN GETTING CONNECTED TO KWRU'S SYSTEM? IF SO,**
15 **PLEASE DESCRIBE THE COUNTY'S PROGRAMS AND EFFORTS IN THIS REGARD.**

16 A. Yes. The County "purchased" capacity for 1,500 EDUs via the Capacity
17 Reservation and Infrastructure Contract dated July 31, 2002, between KWRU and
18 the County (the "CRI Contract"). In the CRI Contract, the County agreed to pay
19 KWRU up to \$4.6 million to fund a collection system to provide service to a wide
20 area of South Stock Island. Construction of that collection system left some
21 customers without a connection point. Additionally, in a separate agreement

1 with KWRU, the County agreed to pay KWRU approximately \$900,000 to fund
2 conversion of its treatment plant to AWT. As of this date approximately 24
3 properties representing a total of 200 EDUs are not able to connect because
4 KWRU has advised that it is already at full capacity under their current FDEP
5 permit.

6
7 **Q. PLEASE TELL THE PUBLIC SERVICE COMMISSION AS MUCH AS YOU CAN**
8 **CONCERNING PROPERTIES THAT HAVE CONNECTED TO KWRU'S SYSTEM AFTER**
9 **APRIL 1, 2016, AND THAT ARE LIKELY TO CONNECT TO KWRU'S SYSTEM BEFORE**
10 **MARCH 31, 2018. PLEASE BE AS SPECIFIC AS POSSIBLE.**

11 A. Based on information available to me, including my review of records for
12 building permits and development on North Stock Island, through the City of Key
13 West, and South Stock Island, through the County, my review of Edward Castle's
14 direct testimony filed in this case, and my personal knowledge of the Stock Island
15 area, I believe that the following additional customers either recently have
16 connected to the KWRU system or are likely to begin taking wastewater
17 treatment service from KWRU in the near future.

18 **North Stock Island**

19 On North Stock Island, there are four building projects that are underway.
20 They are expected to add a total of approximately 63,250 gpd (374 ERCs)

1 between now and 2017; I expect the majority of this additional gallonage to be
2 flowing and treated by the end of June 2017.

3 First, Sunset Marina has received approval from the City of Key West to add
4 60 units. According to Mr. Castle's direct testimony filed in this case and an
5 appraisal report dated January 2015 commissioned by KWRU, the Sunset Marina
6 project will add approximately 15,000 gpd or 155 ERCs. (A copy of the relevant
7 page from the appraisal report is filed with my testimony as Exhibit KGW-9.)

8 Second, Florida Keys Community College recently received approval from the
9 Florida Legislature in the Spring 2016 session to add 200 additional beds,
10 reflecting 200 additional residents at the college. This was reported at the
11 following site/link:

12 <http://www.flkeysnews.com/news/local/education/article79623897.html>. This
13 could add up to 41,000 gpd or 200 ERCs, depending on the way in which the
14 utility calculates the addition of the 200 people.

15 In addition, the Monroe County School District has planned an expansion of
16 the Gerald Adams Elementary School on North Stock Island. In the short term,
17 the District is increasing its enrollment from 700 students and faculty to 770.
18 Using Rule 64E-6.008, Florida Administrative Code ("F.A.C.") to estimate sewage
19 flow for day schools, that would result in an increase of 4.8 additional ERCs (70
20 additional persons x 14 gallons per day for each student with cafeteria divided by
21 205 gallons per day = 4.8). The District also plans to add another building in the

1 future, possibly in 2018, which will bring the total enrollment to 950. Using the
2 same equation, that would result in a further increase of 12.3 EDUs ($950-770=$
3 180 students, $(180 \times 14 \text{ gpd})/205=12.3$ ERCs), for a total of 3,500 gpd.

4 The Florida Keys SPCA is also in the process of building a new animal shelter
5 on North Stock Island, which could generate as much as 3,750 gpd (15 -22 ERCs
6 depending on how the flow is calculated). If the shelter is assessed as a business
7 occupancy, the building is 24,915 square feet. Using Rule 64E-6.008, F.A.C.,
8 office buildings are estimated as 15 gpd/100SF. This building would therefore be
9 estimated to generate 3,750 gpd which equates to 18.3 ERCs or 22.5 ERCs (using,
10 respectively, 205 or 167 gpd/ERC). Alternatively, if this shelter is assessed as a
11 veterinary clinic, it would generate 2,550 gpd. The plans contain 120
12 kennels/cages which, using Rule 64E-6.008, F.A.C., generate an estimate 2,400
13 gpd of wastewater, which equates to 11.7 ERC at 205 gpd, or 14.4 ERCs at 167
14 gpd/ERC. In addition, there are 10 employee shifts at 15 gpd/shift, generating an
15 additional 150 gpd or 1 ERC. From this is subtracted the existing shelter at
16 1085.5 gpd, or 6.5 ERCs, for a net of 1,464 gpd.

17 The City of Key West is also in the process of implementing zoning changes
18 that would allow the addition to up to 80 additional units (80 ERCs) on an
19 existing property that currently houses Easter Seals, Mosquito Control, and the
20 SPCA animal shelter. However, we do not expect that increase to occur until at
21 least 2019.

1 **South Stock Island**

2 As mentioned above, South Stock Island is part of unincorporated Monroe
3 County. Therefore, all requests for building permits and development approvals
4 go through the Monroe County Building Department and the Monroe County
5 Planning Department. I have reviewed the records provided to me by the
6 Planning Director, and based on that review, I offer the following information.

7 There are also currently four large development projects in the pipeline on
8 South Stock Island, cumulatively expected to add at least 87,810 gallons per day
9 (901 ERCs). Mr. Castle's direct testimony filed in this case appears to state that
10 all four projects had begun operating in 2014 and 2015. However, as shown
11 below, all four are in some phase of construction and are expected to come
12 online and add the majority of their additional ERCs sometime during 2016 or
13 2017.

14 The first is a large property owned by the Benjamin Bernstein Trust. In
15 August 2015, the owners received approval from the Board of County
16 Commissioners for redevelopment of the property, to include a 122 room hotel,
17 a restaurant with up to 150 seats and a market, a marina, and 40,000 sq. feet of
18 non-residential development. According to Mr. Castle's testimony and an
19 appraisal report dated January 2015 commissioned by KWRU, the Bernstein
20 project will add 30,000 gpd or 310 ERCs. I expect the substantial majority of this
21 wastewater to be flowing by early to mid-2017.

1 In addition, Oceanside Investors, LLC and two related entities with common
2 owners, Oceanside West Slip LLC, Oceanside 104 LLC (collectively referred to here as
3 “Oceanside”) own or have recently purchased a total of 57 parcels on South
4 Stock Island. In 2015, Oceanside Investors, LLC received development approval
5 for a project on Peninsular Ave., to improve a marina’s facilities, construct 78
6 new market rate residential dwelling units, construct 4 hotel rooms, and
7 construct a restaurant with up to 150 seats. Oceanside Marina is currently under
8 construction and will be occupied probably in January 2017. In addition to what
9 Mr. Castle stated in his testimony, the project also includes wet slips and dry
10 slips. According to Mr. Castle’s testimony and the appraisal report
11 commissioned by KWRU, the project will add approximately 26,125 gpd or 271
12 ERCs.

13 Third, in 2015, Longstock II, LLC received approval from the County to
14 develop the Stock Island Marina Village by adding a 100-room hotel with a 192-
15 seat restaurant and tiki bar. DEP permit 63485-066-DWC/CM issued for the
16 project included three bath houses; a fuel service building; 130 wet slips; a green
17 building; an engine building; a Keytex building; 100 hotel rooms; a 142 seat
18 restaurant and a 50 seat tiki bar (“pool bar”). According to Mr. Castle’s
19 testimony and an appraisal report dated January 2015 commissioned by KWRU,
20 the Stock Island Marina Village project will add 313 ERCs. The reconfiguration of
21 the docks and wet slips and bathhouses for liveboards was done at least a year

1 ago, but the hotel and restaurant are under construction. The estimated date
2 for completion is early to mid-2017. The Stock Island Marina Village project is
3 expected to add 30,250 gpd above 2014 levels.

4 Fourth, the County is in the process of developing Bernstein Park. The park is
5 located in the middle of South Stock Island. The park is expected to add 7 ERCs
6 once completed, which is expected to be in 2017. The park is expected to add
7 1,435 gpd.

8 In addition, there are 72.77 existing commercial ERCs on South Stock Island
9 that have not or cannot yet connect to the central system. These represent an
10 additional 14,918 gpd of wastewater flow that could connect immediately were
11 capacity available.

12 Finally, there are at least 40 acres of vacant or underdeveloped property.
13 However, I have not included these in the calculation.

14 In other words, the eight projects are expected to generate a total of 151,060
15 gpd and existing unconnected commercial properties that generate 14,918 gpd.
16 Based on the utility's statement (in its 2015 Annual Report) that it has used all of
17 its existing capacity, I expect that the majority of the additional volume will come
18 online once the plant expansion is complete. If that is the case, these will add
19 165,978 gpd to existing treated wastewater flow in 2017, which will represent a
20 36% increase in volume.

1 The KWRU 2015 Annual Report (page S-7) shows that in 2015, the utility
2 collected \$310,187 in contributions in aid of construction. Thus, in 2015, the
3 utility collected 114.8 ERCs in new capacity reservation fees in that year, beyond
4 the historic test year.

5

6 **Q. PLEASE PROVIDE ANY INFORMATION AVAILABLE TO YOU REGARDING**
7 **EXISTING COMMERCIAL AND INDUSTRIAL CUSTOMERS THAT ARE REQUIRED**
8 **TO CONNECT TO KWRU'S SYSTEM, INCLUDING ANY INFORMATION YOU HAVE**
9 **REGARDING THE TIMING OF THOSE CONNECTIONS.**

10 A. Existing commercial and industrial service customers, who are designated
11 "General Service" customers under KWRU's tariffs, are subject to the same
12 statutory and regulatory mandate as residential customers; that is, they were
13 also required to be connected to KWRU's system by the end of last year. Those
14 that have not yet connected are subject to being required to connect, and
15 should connect, as soon as possible after KWRU's new WWTP comes on line,
16 again limited only by the utility's ability to complete the physical connections. As
17 stated above, comparing FCAA's and KWRU's information indicates that there
18 are approximately 24 unconnected commercial customers that will require
19 connection as soon as possible pursuant to the statutory mandate, and these are
20 projected to use approximately 14,918 gpd of service.

21

1 **Q. PLEASE TELL THE PUBLIC SERVICE COMMISSION AS MUCH AS YOU CAN**
2 **CONCERNING PROJECTED OTHER NEW COMMERCIAL OR INDUSTRIAL**
3 **ESTABLISHMENTS THAT HAVE CONNECTED TO KWRU'S SYSTEM AFTER APRIL 1,**
4 **2016, AND THAT ARE LIKELY TO CONNECT TO KWRU'S SYSTEM BEFORE MARCH**
5 **31, 2018. PLEASE BE AS SPECIFIC AS POSSIBLE.**

6 A. In the last months, the City of Key West's new transportation maintenance
7 facility opened on North Stock Island. I assume it is connected to KWRU. The
8 only other new commercial facilities of which I am aware are those referenced
9 above. These include, on North Stock Island, the school expansion, the addition
10 of a new Animal Control facility, and expansion of Sunset Marina. On South
11 Stock Island, there are the hotel, commercial space, and restaurant components
12 of the Longstock, Oceanside Marina, and the Bernstein Trust developments, and
13 the County's Bernstein Park.

14
15 **Q. WHAT IS THE GENERAL OUTLOOK FOR ECONOMIC GROWTH AND ADDITIONAL**
16 **DEVELOPMENT ON STOCK ISLAND, AND WHAT, IF ANYTHING, DOES THIS IMPLY**
17 **FOR GROWTH IN THE AMOUNT OF WASTEWATER TREATMENT SERVICE THAT**
18 **KWRU CAN REASONABLY BE EXPECTED TO PROVIDE?**

19 A. This is difficult to predict but the recent trend has been for additional
20 development of high-end transient or condominium development.

21

1 **Q. ARE YOU AWARE OF ANY SIGNIFICANT EVENTS OR EXPECTED EVENTS, E.G.,**
2 **BUSINESS CLOSINGS OR DEMOLITIONS OF SIGNIFICANT NUMBERS OF**
3 **RESIDENTIAL UNITS, THAT WOULD BE EXPECTED TO REDUCE THE DEMAND FOR**
4 **WASTEWATER TREATMENT SERVICE PROVIDED BY KWRU IN 2016, 2017, AND**
5 **2018?**

6 A. No, I am not aware of any such demand-dampening events either having
7 occurred or expected to occur over this time period. Recent trends suggest the
8 opposite with increased development, especially on South Stock Island.

9

10 **IMPACTS ON KWRU'S WASTEWATER TREATMENT VOLUMES**

11 **Q. TAKING INTO CONSIDERATION ALL OF THE FOREGOING INFORMATION**
12 **REGARDING THE NUMBER OF EXISTING RESIDENTIAL AND GENERAL SERVICE**
13 **CUSTOMERS THAT WILL BE REQUIRED TO CONNECT TO KWRU'S SYSTEM WHEN**
14 **THE NEW TREATMENT PLANT COMES ON-LINE, AND ALSO TAKING INTO**
15 **CONSIDERATION THE PROJECTED NUMBERS OF NEW RESIDENTIAL AND**
16 **GENERAL SERVICE CUSTOMERS THAT HAVE CONNECTED TO KWRU'S SYSTEM**
17 **SINCE APRIL 1, 2016, WHAT INCREASES IN KWRU'S TREATMENT VOLUMES DO**
18 **YOU BELIEVE ARE REASONABLE?**

19 A. First, I believe that it is important to establish the baseline of KWRU's usage for
20 2015. According to its 2015 Annual Report, KWRU treated 168,529,000 gallons,
21 of which 84,168,400 were residential. This is particularly important because the

1 Public Service Commission is considering setting rates for the period beginning
2 April 1, 2016, and continuing until the date on which the new wastewater
3 treatment plant comes on-line, and then considering different rates to take
4 effect when the new plant comes on-line. At least as a matter of common sense,
5 it strikes me that the rates charged by KWRU should be based on the amounts of
6 service provided and charged for during the same time periods that costs are
7 incurred to provide that service.

8 With that foundation, I believe that KWRU will serve approximately 1,644
9 residential customers between April 1, 2016 and March 31, 2017, and that those
10 residential customers will use or receive approximately 84,168,400 gallons of
11 wastewater treatment service during that period. I further estimate that KWRU
12 will serve approximately 1,938 residential customers between April 1, 2017 and
13 March 31, 2018, and that those residential customers will use or receive
14 approximately 99,219,786 gallons of wastewater treatment service during that
15 period. I have chosen these periods because KWRU projects that its new
16 wastewater treatment plant is expected to come on-line in March or April of
17 2017. That table is Exhibit KGW-10 to my testimony.

18 Additionally, I believe that KWRU will serve approximately 177 general
19 service customers between April 1, 2016 and March 31, 2017, and that those
20 customers will use or receive approximately 84,360,600 gallons of wastewater
21 treatment service during that period. I further estimate that KWRU will serve

1 approximately 201 general service customers between April 1, 2017 and March
2 31, 2018, and that those customers will use or receive approximately
3 144,942,515 gallons of wastewater treatment service during that period. These
4 values are also shown in Exhibit KGW-10 to my testimony.

5
6 **Q. IN THE PAA ORDER, THE COMMISSION PROPOSED TO DISCONTINUE THE**
7 **COLLECTION OF PLANT CAPACITY CHARGES. DO YOU BELIEVE THAT THE UTILITY**
8 **SHOULD CONTINUE TO COLLECT THIS CHARGE FROM FUTURE CUSTOMERS?**

9 A. Yes, I believe that the Utility should continue to collect the \$2,700 per ERC Plant
10 Capacity Charge, which is a contribution in aid of construction ("CIAC") toward
11 the cost of KWRU's physical plant. In the PAA Order, the Commission stated that
12 although the Utility did not request a change in its service availability policy or
13 charges, the Commission was concerned that the Utility's contribution level,
14 which as I understand it is basically the ratio of CIAC to plant cost balances for
15 2014 was in excess of 100 percent.

16 I disagree that KW's plant capacity charge should be discontinued. In the
17 first instance, KWRU is proposing to add millions of dollars of new plant
18 investment, including the costs of the new WWTP and the new Airvac vacuum
19 tank, which will reduce the ratio of CIAC to plant investment. More significantly,
20 as a customer and as the County's chief official with responsibility for
21 wastewater treatment, discontinuing the collection of Plant Capacity Charges

1 will treat existing customers, who have paid the CIAC/Plant Capacity Charges,
2 unfairly in that they will have paid for a substantial percentage of existing plant,
3 through *their* payment of *their* \$2,700 CIAC/Plant Capacity Charges, and would
4 then also be required to pay for a disproportionate percentage of new plant, as
5 well, because the cost of the new WWTP and new Airvac vacuum tank would not
6 be partially defrayed by CIAC payments from new customers, whose demand is
7 causing KWRU to build the new WWTP and tank. Accordingly, in my view,
8 allowing new customers not to pay CIACs/Plant Capacity Charges would not be
9 fair, just, or reasonable.

10
11 **Q. WHAT ADDITIONAL CAPACITY RESERVATION FEES WILL BE GENERATED BY THE**
12 **ADDITIONAL CAPACITY?**

13 A. If all of the additional capacity is used, the estimated additional ERCs will be
14 1707 ERCs, using a figure of 205 gpd ($350,000/205=1707$), or 2095.8 ERCs, using
15 a figure of 167 gpd ($350,000/167=2095.8$). This would generate additional
16 capacity reservation fees, or contributions in aid of construction, in the amount
17 of \$4,608,900 - \$5,658,660.

18 **REUSE SERVICE**

19 **Q. PLEASE SUMMARIZE YOUR KNOWLEDGE OF THE VOLUMES OF REUSE SERVICE**
20 **PROVIDED BY KWRU, INCLUDING ANY REUSE SERVICE PURCHASED BY**
21 **MONROE COUNTY.**

1 A. According to its 2015 Annual Report, KWRU sold 36.192 million gallons of reuse
2 water to the Key West Golf Course and another 1.683 million gallons in reuse to
3 the Monroe County Detention Center, and collected approximately \$58,188 in
4 revenues from those sales. According to County records, in 2015, Monroe
5 County paid \$7,172.37 to KWRU for reuse services representing a billed total
6 usage of approximately 3.9 million gallons. Through the first seven (7) months of
7 2016 for which our records are accessible, the county has been billed \$4,217.07
8 for 3.221 million gallons of reuse water.

9

10 **Q. DO YOU HAVE ANY INFORMATION REGARDING THE POTENTIAL EXPANSION OF**
11 **REUSE WATER SERVICE THAT KWRU MAY BE ABLE TO SELL?**

12 A. When redevelopment of Bernstein Park is complete, it will include a system to
13 use reuse water for irrigation. This project is expected to be completed in the
14 summer of 2017. Forecast use of reuse water on a going basis is expected to be
15 5.8 million gallons per year. In the first six (6) months following project
16 completion in summer of 2017, this could be an annualized amount of 3-4 times
17 that amount.

18

19 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

20 A. Yes.

21

1 BY MR. WRIGHT:

2 Q And, Mr. Wilson, did you also prepare or cause
3 to be prepared under your supervision and direction
4 prefiled exhibits consisting of 10 exhibits numbered
5 KGW-1 through KGW-10 that were attached to your prefiled
6 testimony?

7 A I did.

8 Q Thank you.

9 MR. WRIGHT: Madam Chairman, I note for the
10 record that those have been marked for
11 identification as Exhibits 32 through 41.

12 CHAIRMAN BROWN: Thank you.

13 Staff, you want to go now first?

14 MS. MAPP: Yes.

15 EXAMINATION

16 BY MS. MAPP:

17 Q Mr. Wilson, good afternoon.

18 A Hello.

19 Q Can you please reach into the large white
20 binder in front of you and pull out the comprehensive
21 exhibit list?

22 A I have it.

23 Q And turn to page nine.

24 A Okay.

25 Q On page nine, you are listed as having

1 provided responses to Exhibit No. 71, and on page 10,
2 you are listed as having provided responses to Exhibit
3 No. 72.

4 A Yes.

5 Q Were these responses prepared by you or under
6 your direction or control?

7 A Yes.

8 Q And are they true and accurate to the best of
9 your knowledge and belief?

10 A To the best of my knowledge and belief, yes.

11 MS. MAPP: Thank you.

12 CHAIRMAN BROWN: Thank you.

13 MR. WRIGHT: Thank you.

14 FURTHER EXAMINATION

15 BY MR. WRIGHT:

16 Q Mr. Wilson, please summarize your testimony in
17 fewer than five minutes.

18 A Yes, sir.

19 CHAIRMAN BROWN: Thank you.

20 THE WITNESS: I actually hopefully will go
21 less than five minutes.

22 In my testimony, I provide an oversight on a
23 number of things to do with this rate case, and I
24 will cover it in probably five pieces.

25 One of them is the existence that the County

1 is the biggest customer. We have six facilities
2 that are customers of the utility. Prior to any
3 rate increases, we spend about \$300,000 a year on
4 wastewater charges.

5 The other things I will cover are the history
6 of the County with the utility, the character of
7 Stock Island, the current state of affairs, what we
8 expect to see coming in the future and future
9 development -- there was some discussion already
10 about future development, and we will cover some of
11 that.

12 Just so you know there -- we have facilities
13 on both sides of Stock Island, the fire station and
14 Bernstein Park on South Stock Island. Four
15 facilities in the north, including an assisting
16 living facility, another transient living facility
17 sometimes referred to as a detention center.

18 There is no reason to be doing this if we are
19 not having some fun.

20 CHAIRMAN BROWN: That's true.

21 THE WITNESS: Okay. On a more serious note.
22 In 2002, the County contracted with Key West Resort
23 Utilities to provide utility services for county
24 residents there, including expansion of the
25 collection system. Fast forward to the current

1 situation, is that that vacuum system is mostly
2 completed but not completely. We have some
3 residential customers and some commercial customers
4 who are not yet connected to that system, even
5 though they are included in the service area.

6 My testimony contains some details about which
7 properties they are on both North and South Stock
8 Island, and I will just leave that in the record
9 and won't try to repeat it as I talk about it here.

10 There have been some discussions about the
11 changes the Legislature made to the wastewater
12 system, our situation in the Keys in 2010. We were
13 supposed to be at all -- all residents in the
14 county, all businesses in the county were supposed
15 to be advanced wastewater treatment. In 2000 --
16 this legislative session in 2010, the Legislature
17 gave us an additional five years -- or actually
18 four and half years, until December 31st, 2015,
19 largely because of the immense cost. I would be
20 remise if I didn't say this. The County is now
21 pretty close to spending \$800 million on wastewater
22 treatment throughout the county for 73,000
23 residents. Yeah, uh-huh, that's a lot of money.

24 Some background on Stock Island: It is
25 probably, especially South Stock Island, is

1 probably the most densely populated part of the
2 county, with the exception of Key West. It has
3 more children per acre than any other place. It
4 has about -- it has perhaps the lowest median
5 income in the county. The county median income is
6 something like \$55,000 per household. In Stock
7 Island it's about 30 -- it's in the mid-30s, so
8 it's considerably less than the rest of the county.

9 MS. CRAWFORD: Ms. Chairman, I hate to
10 interject, but I think some of his summary is going
11 well beyond the scope of his testimony, unless I am
12 mistaken.

13 THE WITNESS: No, you will find in one of the
14 attachments to my testimony is the census data on
15 Stock Island.

16 CHAIRMAN BROWN: Okay. Mr. Wilson, you can
17 proceed then. Continue.

18 THE WITNESS: Sorry to be argumentative.

19 CHAIRMAN BROWN: That's okay. Continue. I
20 see it.

21 THE WITNESS: Beyond that, the other thing
22 that I wanted to address is the use of reuse water
23 in the county. We -- in my testimony, I talk about
24 two uses. We use it at the jail, and we will be
25 using it at the redeveloped Bernstein Park, which

1 is right now under construction. The details of
2 all the flows and things like that, I am sure will
3 be subjects of questions. But it's -- you can see
4 the numbers in the testimony.

5 And I think that pretty much summarizes where
6 we are at, and from there we will go.

7 CHAIRMAN BROWN: Thank you.

8 Mr. Wright.

9 MR. WRIGHT: Thank you, Madam Chairman.
10 Mr. Wilson is available for cross-examination.

11 CHAIRMAN BROWN: Thank you.

12 And we will begin again with -- actually, we
13 will start with Public Counsel first, followed by
14 Harbor Shores, and then the utility.

15 MR. SAYLER: Madam Chairman, no questions.

16 CHAIRMAN BROWN: Thank you.

17 Harbor Shores.

18 MS. AKTABOWSKI: No questions.

19 CHAIRMAN BROWN: Thank you.

20 Utility.

21 EXAMINATION

22 BY MR. SMITH:

23 Q Good evening, Mr. Wilson.

24 A Good evening, and Eastern Standard Time.

25 Q As part of your testimony, you talked about

1 the contract with the utility to -- that as part of it,
2 the County reserved 1,500 EDUs, correct?

3 A Correct.

4 Q And recently the County and the utility have
5 gone through to reconcile the -- identify those 15 EDUs,
6 correct?

7 A Recently, and continues over the last two or
8 three years, we have been working on it, yes.

9 Q Fair statement.

10 And so, as part of this reconciliation, the
11 County is going to reopen the tax assessment roll in
12 2017 to assess certain EDUs that have not been assessed
13 as of yet?

14 A I would say it differently. As part of the
15 value -- the reconciliation of 1,500, we have said --
16 and I have said on a number of occasions with you
17 presents -- that the County will reopen the tax roll for
18 those properties who have already not paid their system
19 development fee. I don't know how many properties those
20 are. As you are aware, we are going through detailed
21 economic -- or financial reviews of who's paid and who
22 hasn't paid to whom.

23 Q Certainly. And so if there is a customer
24 that's connected that desires to be in the assessment
25 roll, and the utility is holding CIAC, you would agree

1 **that the utility, when this customer is placed on the**
2 **assessment roll, will have to refund that money to the**
3 **customer?**

4 A I don't agree with the premise of the
5 question. If a customer has already paid their system
6 development fee -- which I guess you are characterizing
7 as CIAC. I apologize, I am not an expert in public
8 service terminology. But if they have already paid a
9 systems development fee to the utility, we -- the
10 contract perceives that the utility would pay that money
11 to the County. If a customer has already paid their
12 system development fee to the County, then they have
13 already paid it. Those people that haven't paid a
14 system development fee to anybody, we envision to
15 putting them on a tax roll.

16 Q **But you would agree that the County has given**
17 **everybody in Monroe County the ability -- that they have**
18 **reserved EDUs the ability to be on the assessment roll?**

19 A Reserved EDUs is a term that's only -- was
20 only applied for Stock Island in the early days in
21 other -- in other areas served by the County's owned
22 sewage treatment systems -- and it's not the entire
23 county, as you know, because there are areas served by
24 key Largo and other places. But in places where the
25 County is responsible for owning and developing the

1 system development fee tax rolls, we have levied the
2 assessments by using the -- what's the right word? The
3 standard method of collection of non-ad valorem special
4 assessments. We have not provided the people the
5 opportunity to reserve EDUs.

6 **Q Let me simplify this for you. So if the**
7 **utility has collected funds that are part of those --**
8 **the 1,500 EDUs, either if the customer goes on the**
9 **assessment roll, or go back to the customer, or if the**
10 **customer -- or the funds should be remitted to Monroe**
11 **County, correct?**

12 **A** If the customer has already paid the utility
13 and -- then the utility should pay us for it.

14 **Q If it's part of the 1,500 EDUs?**

15 **A** Yes.

16 **Q Thank you.**

17 **MR. SMITH:** No further questions.

18 **CHAIRMAN BROWN:** Thank you.

19 All right. Staff.

20 **MS. CRAWFORD:** Thank you, yes.

21 Staff does have just a very few questions. I
22 would like to note that what I am going to attempt
23 to do is resolve -- or get some clarity between
24 Mr. Wilson, your testimony, and Monroe County
25 Witness Santamaria's testimony. I do note that Ms.

1 Santamaria has been excused from the proceeding.
2 Her testimony has not yet been entered into the
3 record, but with everyone's permission and consent,
4 I will simply refer to one page, one line in her
5 testimony, and ask Mr. Wilson to help clarify in
6 regards to his own testimony.

7 So I do have a complete copy of Ms.
8 Santamaria's testimony for the witness if he needs
9 to have that, or his counsel can provide him a
10 copy, whichever his preference is.

11 CHAIRMAN BROWN: Mr. Wilson.

12 THE WITNESS: Go ahead and try the question,
13 and if I recognize it, I will respond. If not, I
14 will --

15 MS. CRAWFORD: Very good. And for reference
16 to everyone else, I am going to be referring to Ms.
17 Santamaria's testimony, page 14 and 15.

18 CHAIRMAN BROWN: Thank you.

19 EXAMINATION

20 BY MS. CRAWFORD:

21 Q Specifically on page -- and just 14, because
22 it references the question is, please summarize the
23 Stock Island Marina Village Project. And then on page
24 15, at lines three through five, Ms. Santamaria
25 testifies, according to the DEP wastewater permit, the

1 project is expected to add 16,680 gallons per day to the
2 existing 30,742, for a total of 47,422 gallons per day.

3 Does that -- are you familiar enough with Ms.
4 Santamaria's testimony that that is familiar to you?
5 Would you like to look at the testimony to --

6 A I suppose I ought to look at it, and maybe
7 ought to check my notes about what I have for those
8 things as well.

9 CHAIRMAN BROWN: Ms. Crawford, how many
10 questions do you have?

11 MS. CRAWFORD: It's like three or four.

12 CHAIRMAN BROWN: Okay. We are going to try to
13 finish this witness then.

14 MS. CRAWFORD: I will try to boogie.

15 CHAIRMAN BROWN: Thank you.

16 BY MS. CRAWFORD:

17 Q And, Mr. Wilson, for your reference, the
18 testimony that you have provided on this is at page
19 three of your testimony, lines two through three, where
20 you state that the Stock Island Marina Village Project
21 is expected to add 30,250 gallons per day above the 2014
22 levels.

23 A So the question is reconciliation of the
24 difference?

25 Q Yes, sir.

1 A When I -- when I did the calculation, I used
2 the utility's 205 -- or 250 gallons per day. The DEP
3 may have used 167 gallons per day. That's the best I
4 can do to explain the difference.

5 Q And the amount that you are referring to, the
6 30,250 gallons per day, is that -- let me ask you this:
7 Between the two numbers provided, which do you believe
8 is a better estimate of the gallons per day to be
9 provided in the project?

10 A So I am -- so the question is, do I go under
11 the bus or does Mayté go under the bus. I obviously
12 think my estimate is a better estimate.

13 MS. CRAWFORD: If I could have just a moment?

14 CHAIRMAN BROWN: Certainly.

15 BY MS. CRAWFORD:

16 Q Would it be correct to say that the total
17 future flows will be 30,250 gallons per day, or is it
18 that the 30,250 gallons per day will be incremental or
19 additional past the 2014 flows?

20 A If I may be allowed a moment to grab my notes
21 from the back, I can check to see how I did the
22 calculation.

23 CHAIRMAN BROWN: Sure, Mr. Wilson.

24 THE WITNESS: In my notes, it appears it's
25 additional.

1 MS. CRAWFORD: Thank you, sir.

2 That's all I have.

3 CHAIRMAN BROWN: Thank you.

4 Commissioners?

5 Redirect?

6 MR. WRIGHT: No redirect, Madam Chairman.

7 CHAIRMAN BROWN: Thank you.

8 This witness has Exhibits 32 through 41.

9 Would you like those moved into the record?

10 MR. WRIGHT: Yes, ma'am, I would. Thank you.

11 CHAIRMAN BROWN: Seeing no objection, we will
12 go ahead and moved 32 through 41 into the record.

13 (Whereupon, Exhibit Nos. 32-41 were received
14 into evidence.)

15 CHAIRMAN BROWN: Mr. Wilson, thank you very
16 much.

17 THE WITNESS: You are welcome. And once
18 again, thank you for being here and giving me the
19 opportunity to have this fun.

20 CHAIRMAN BROWN: Thank you. It is fun.

21 All right, you are excused.

22 (Witness excused.)

23 MR. WRIGHT: If you like, we could probably
24 handle the entry of Ms. Santamaria's testimony and
25 exhibits, Madam Chairman.

1 CHAIRMAN BROWN: Let's do that.

2 MR. WRIGHT: Thank you.

3 CHAIRMAN BROWN: All right.

4 MR. WRIGHT: Madam Chairman, Ms. Ada Mayté
5 Santamaria prepared and caused to be filed in this
6 proceeding prefiled direct testimony of 17 pages.
7 All parties have stipulated that they may be
8 entered into the record as though read, and
9 accordingly, I would ask that you do so at this
10 time?

11 CHAIRMAN BROWN: We will go ahead and enter
12 into the record as though read Ms. Ada Mayté
13 Santamaria.

14 MR. WRIGHT: Thank you, Madam Chairman.

15 (Prefiled testimony inserted into the record
16 as though read.)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 150071-SU,

KW RESORT UTILITIES CORPORATION RATE CASE

DIRECT TESTIMONY OF MAYTÉ SANTAMARIA

September 14, 2016

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION.**

2 A. My name is Ada Mayté Santamaria, and my business address is 2798
3 Overseas Highway, Suite 400, Marathon, Florida 33050. I am employed by
4 Monroe County as the Director in charge of Planning and Environmental
5 Resources.

6

7 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS DOCKET?**

8 A. I am testifying on behalf of the Board of County Commissioners of Monroe
9 County, Florida.

10

11 **Q. PLEASE DESCRIBE YOUR EDUCATION AND EXPERIENCE.**

12 A. I have a Bachelor of Science from the University of Florida in Zoology & Wildlife
13 Ecology and Conservation, and a Master of Science in Management, also from

1 the University of Florida. A copy of my Resume is provided as Exhibit AMS-1 to
2 my testimony.

3 From 2003 through 2005, I was employed by the University of Florida as a
4 Research Assistant, Staff Assistant and Teaching Assistant. In November 2005, I
5 was hired by the Florida Department of Community Affairs as a Community
6 Planner for Areas of Critical State Concern. The Area of Critical State Concern
7 (ACSC) Program protects areas containing environmental or natural resources,
8 historical or archaeological resources, and public facilities of major statewide
9 significance.

10 The Florida Keys ACSC was my principal responsibility. I provided technical
11 assistance to local governments, the development community, environmental
12 and civic organizations, and citizens regarding statutory and rule requirements
13 and comprehensive planning issues, particularly for environmental protection
14 and hurricane evacuation issues. I completed research and special projects,
15 participated in multidisciplinary teams and coordinated extensively with federal
16 and state agencies to avoid and minimize impacts to natural resources,
17 threatened and endangered species and water quality. I also reviewed
18 amendments to comprehensive plan amendments and land development
19 regulations for consistency with Florida Statutes and rules. I reviewed
20 development orders and environmental resource permits for consistency with
21 Florida Statutes and rules, local comprehensive plan elements and land

1 development regulations. I also assisted with the drafting of legislation, rules
2 and the Florida Keys ACSC annual reports to the Governor and Cabinet, and I
3 testified as an expert witness in comprehensive planning in three administrative
4 hearings.

5 In February 2010, I joined the Florida Department of Environmental
6 Protection as an Environmental Administrator in the Florida Coastal
7 Management Program (FCMP). I assisted with the management of the FCMP. I
8 reviewed and analyzed amendments to 24 sections of the Florida Statutes to
9 determine their effects on coastal resources and uses. I collaborated with
10 federal agencies and state agencies and evaluated consistency reviews of federal
11 agency activities, federally funded activities, and activities requiring federal
12 licenses or permits. I researched and analyzed data to complete performance
13 measure reports to the National Oceanic and Atmospheric Administration
14 (“NOAA”) on achieving the objectives of the Coastal Zone Management Act,
15 coordinated the update of the Florida Assessment of Coastal Trends report
16 (assessing the status and trends of coastal resources and uses in Florida), and
17 drafted land acquisition proposals for submission to NOAA’s Coastal and
18 Estuarine Land Conservation Program (CELCP) and assisted with the
19 administration of CELCP grants. I also directed the development of a GIS-based
20 public beach access guide and managed a Beach Access and Safety Program.

1 In March 2011, I joined Monroe County as the Assistant Director of Planning &
2 Environmental Resources. In December 2014, I was promoted to the Director of
3 Planning & Environmental Resources. I manage 8 sections (Comprehensive Planning,
4 Current Planning, Affordable Housing, Transportation Planning, Environmental
5 Resources, Marine Resources, GIS and Land Steward) with 28 employees. Collectively,
6 those sections assure that development in Monroe County is consistent with the
7 County's Comprehensive Plan and Land Development Code. I assure coordination and
8 consistency between the sections and assist with key decision making related to all
9 development approvals to ensure regulatory documents are enforced consistently,
10 including consistency with the County's Area of Critical State Concern designation. I
11 oversee the preparation of studies, reports, databases, land development regulation
12 amendments, comprehensive plan amendments, master plans, and design guidelines; as
13 well as key land use analysis related to vested rights and determinations of uses related
14 to all development regulations. I regularly present to the Board of County
15 Commissioners and represent the County at public hearings as well as at
16 intergovernmental and community meetings and workshops. I also manage the
17 Planning Commission, Development Review Committee and various other committees.

18
19 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE FLORIDA PUBLIC**
20 **SERVICE COMMISSION ("COMMISSION" OR "PSC")?**

21 **A. No.**

22

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED IN ANY ECONOMIC, ENVIRONMENTAL, LAND**
 2 **USE, OR SIMILAR REGULATORY OR PERMITTING PROCEEDINGS?**

3 A. Yes, I have presented information in many public hearings and testified in a
 4 number of quasi-judicial proceedings before the Board of County Commissioners
 5 and the Monroe County Planning Commission regarding specific development
 6 proposals and projects in which the applicant had coordination letters from
 7 utilities regarding availability of water or wastewater service.

8
 9 **Q. ARE YOU SPONSORING ANY EXHIBITS WITH YOUR TESTIMONY?**

10 A. Yes, I am sponsoring the following exhibits:

AMS-1	Resumé of Mayté Santamaria
AMS-2	2000 Monroe County Sanitary Master Wastewater Plan, "Hot Spot" Excerpt, Exh. 6-1
AMS-3	Monroe County Board of County Commissioners and Planning Commission Resolutions for the Bernstein Trust Project
AMS-4	Monroe County Board of County Commissioners and Planning Commission Resolutions for the Oceanside Marina Project
AMS-5	Monroe County Board of County Commissioners and Planning Commission Resolutions for the Stock Island Marina Village Project

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PURPOSE AND SUMMARY OF TESTIMONY

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2

Q. PLEASE SUMMARIZE YOUR DUTIES AND RESPONSIBILITIES IN YOUR CURRENT POSITION AS THEY RELATE TO LAND USE, PLANNING, AND WASTEWATER SERVICE ON STOCK ISLAND.

3

4

5

A. In my current position, I am responsible for oversight of the Planning & Environmental Resources and assure that development in Monroe County is consistent with the County's Comprehensive Plan and Land Development Code. In that capacity, I review proposals/projects throughout unincorporated Monroe County, inclusive of South Stock Island, for consistency with land use policies, density and intensity standards, open space, environmental regulations, compatibility with surrounding uses, impact on community character, and effects on utilities and facilities. As part of these reviews, applicants must provide coordination letters and other data to ensure there is available water and wastewater capacity to serve the proposed development.

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Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

17

A. My testimony provides factual information regarding projects that have been approved for development on South Stock Island.

18

19

20

Q. PLEASE SUMMARIZE THE MAIN CONCLUSIONS OF YOUR TESTIMONY.

1 A. There are four major development projects currently underway on South Stock
2 Island. All of them received approvals in the 2014 and 2015 time frame. On
3 most of them, construction is currently underway. The expected time frame for
4 completion of three projects is early to mid-2017.

5

6

LEGAL AND REGULATORY REQUIREMENTS

7

**Q. PLEASE DESCRIBE AND EXPLAIN ANY LEGAL OR REGULATORY REQUIREMENTS
8 FOR EXISTING RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL WATER USERS
9 THAT ARE NOT PRESENTLY CONNECTED TO KWRU'S SYSTEM TO BE
10 CONNECTED IN THE CONTEXT OF STATE STATUTES AND MONROE COUNTY
11 ORDINANCES REQUIRING CONNECTION TO A CENTRAL WASTEWATER SYSTEM.**

12

A. For purposes of this discussion, it is important to understand that Stock Island is
13 in the Florida Keys, which is an "Area of Critical State Concern" designated by the
14 Florida Legislature. Also, the requirements to connect to KWRU's system apply
15 not only to new residential customers and businesses, but also to existing
16 customers and businesses.

17

Section 403.086(10)(b), Florida Statutes, which Monroe County is responsible
18 for implementing, requires that the County, as well as all municipalities and
19 special sewage districts in Monroe County, "shall complete the wastewater
20 collection, treatment, and disposal facilities within its jurisdiction designated as
21 hot spots in the Monroe County Sanitary Master Wastewater Plan, dated June

1 2000,” and that the “required facilities and connections, and any additional
2 facilities or other adjustments required by rules adopted by the Administration
3 Commission under s. 380.0552, must be completed by December 31, 2015.”

4 In the referenced Monroe County Sanitary Master Wastewater Plan, the
5 “Unsewered K.W. Resort Utility Resort Area” is the highest ranked “hot spot” in
6 the Lower Keys area and the number-3-ranked hot spot for the entire Florida
7 Keys. Exhibit AMS-2 to my testimony is a copy of EXHIBIT 6-1 to that Plan, which
8 is a listing of the hot spots in the Lower Florida Keys, with rankings by order of
9 significance. Stock Island is the most critical area in the Lower Keys.

10 Monroe County’s adopted comprehensive plan provides that Monroe County
11 shall ensure that all development and redevelopment taking place within its
12 boundaries does not result in a reduction of the level-of-service requirements
13 established and adopted by the comprehensive plan. Additionally, that Monroe
14 County shall maintain level of service (“LOS”) standards for the following public
15 facility types required by Chapter 163, F.S.: sanitary sewer, solid waste, drainage,
16 and potable water. The Florida Statutes, the Monroe County Comprehensive
17 Plan and the Land Development Code, require that Monroe County shall ensure
18 that at the time a certificate of occupancy, or its functional equivalent is issued,
19 adequate sanitary wastewater treatment and disposal facilities are available to
20 support the development at the adopted level of service standards.

21

1 **Q. WHEN ARE THOSE UNITS THAT ARE NOT PRESENTLY CONNECTED TO KWRU**
2 **REQUIRED TO BE CONNECTED FOR WASTEWATER TREATMENT SERVICE?**

3 A. The applicable statutes and regulations require that ALL existing residential and
4 general service establishments had to be connected to KWRU's system as of
5 December 31, 2015, i.e., more than eight months ago. This means that all of the
6 residences and commercial establishments on Stock Island that are not presently
7 connected to KWRU's system must connect as soon as capacity exists to serve
8 them, subject to KWRU completing each physical connection. Further, all such
9 facilities are required by County ordinance to be connected to KWRU's system
10 within 30 days following completion of KWRU's new treatment plant. Monroe
11 County takes all reasonable and practicable steps to ensure compliance with the
12 statutes and its Sanitary Master Wastewater Plan.

13

14 **Q. ARE THERE SIMILAR REQUIREMENTS THAT APPLY TO NEW AND EXPANDED**
15 **RESIDENCES AND COMMERCIAL ESTABLISHMENTS IN KWRU'S SERVICE AREA?**

16 A. Yes. Section 403.086(10)(c), Florida Statutes, requires that "[a]fter December 31,
17 2015, all new or expanded domestic wastewater discharges must comply with
18 the treatment and disposal requirements" of the statute. In practical terms, this
19 means that all new residences and commercial establishments on Stock Island
20 must be connected to KWRU's system in order to obtain a certificate of
21 occupancy (CO). Building permits for new residences or expansion of existing

1 commercial establishments are not issued by Monroe County without a letter
2 from KWRU advising that capacity is available, or, in the alternative, the property
3 owner must produce a waiver from the Florida Department of Health allowing
4 for a holding tank or other similar situation.

5
6 **CURRENT MAJOR DEVELOPMENT ACTIVITIES AFFECTING DEMAND FOR WASTEWATER**
7 **TREATMENT SERVICE ON SOUTH STOCK ISLAND**

8 **Q. PLEASE TELL THE PUBLIC SERVICE COMMISSION AS MUCH AS YOU CAN**
9 **CONCERNING DEVELOPMENT PROJECTS ON SOUTH STOCK ISLAND THAT ARE**
10 **CURRENTLY UNDERWAY, INCLUDING ANY THAT HAVE CONNECTED TO KWRU'S**
11 **SYSTEM SINCE APRIL 1, 2016, AND ANY THAT ARE LIKELY TO CONNECT TO**
12 **KWRU'S SYSTEM BEFORE MARCH 31, 2018. PLEASE BE AS SPECIFIC AS**
13 **POSSIBLE.**

14 **A.** As mentioned above, South Stock Island is part of unincorporated Monroe
15 County. Therefore, all requests for building permits and development approvals
16 on South Stock Island go through the Monroe County Building Department and
17 the Monroe County Planning Department. I have reviewed the records in the
18 Planning Department, including related records from the Building Department
19 available to me, and based on that review, I offer the following information:

20 There are currently four large development projects underway on South
21 Stock Island, cumulatively expected to add at least 102,728 gallons per day of
22 wastewater flow that is treated by KWRU. Mr. Castle's direct testimony filed in

1 this case appears to suggest or state that all four projects had begun operating in
2 2014 and 2015. However, as shown below, all four are in some phase of
3 construction and are expected to come online and add the majority of their
4 additional ERCs, and associated wastewater flow, sometime during late 2016 or
5 2017. These are a property owned by the Benjamin Bernstein Trust; a project on
6 Peninsular Avenue commonly referred to as the Oceanside Marina project; a
7 substantial expansion of the Stock Island Marina Village by Longstock II, LLC,
8 commonly referred to as Stock Island Marina Village or the Longstock Project;
9 and the development by Monroe County of a public park referred to as the
10 Bernstein Park.

11 These four projects are expected to generate a total of 87,810 gallons per
12 day. Information submitted to my office indicates that at least three of the four
13 will be completed in early to mid-2017 at the latest.

14
15 **Q. PLEASE SUMMARIZE THE BERNSTEIN TRUST PROJECT, ITS DEVELOPMENT**
16 **STATUS, AND YOUR EXPECTATIONS FOR THE TIMING OF NEW WASTEWATER**
17 **FLOWS FROM THAT PROJECT AFTER JANUARY 1, 2015.**

18 The first project concerns a large property owned by the Benjamin Bernstein
19 Trust. In August 2015, the owners received approval from the Board of County
20 Commissioners for a Development Agreement for the redevelopment of the
21 property, to include up to a 122 room hotel, a restaurant with up to 150 seats

1 and a market, a marina, 40,000 sq. feet of non-residential development and the
2 preservation of a commercial fishing operation. (Monroe County Resolution No.
3 155-2015, Monroe County O.R. 2756/1023 (Aug. 17, 2015).) According to Mr.
4 Castle's direct testimony filed in this case, the Bernstein project will add 30,000
5 gpd. A permit was issued by the Building Department for demolition on the site
6 (Monroe County permit number 16101324). (Copies of the resolutions and
7 building permit for this project, without attachments, are included as Exhibit
8 AMS-3 to my testimony.) Other construction has not yet begun. The date of
9 project initiation and completion is not known. However, because the project
10 involves a hotel, restaurant, and other commercial ventures, we can reasonably
11 expect that the project will move forward and connect to the wastewater
12 system.

13
14 **Q. PLEASE SUMMARIZE THE OCEANSIDE PROJECT, ITS DEVELOPMENT STATUS,**
15 **AND YOUR EXPECTATIONS FOR THE TIMING OF NEW WASTEWATER FLOWS**
16 **FROM THAT PROJECT AFTER JANUARY 1, 2015.**

17 **A.** In 2013, Oceanside Investors, LLC, received approval from the Board of County
18 Commissioners (BOCC) for a Development Agreement for a project on Peninsular
19 Ave. The agreement was approved by the BOCC at a public hearing on December
20 11, 2013 and recorded on December 19, 2013. In 2014, Oceanside Investors
21 applied for an amendment to the development agreement. The First

1 Amendment was approved by the BOCC at a public hearing on December 10,
2 2014 and recorded on December 17, 2014. In late 2014, Oceanside Investors
3 applied for another amendment to the development agreement. The Second
4 Amendment was approved by the BOCC at a public hearing on June 10, 2015 and
5 recorded on July 20, 2015 (Monroe County Resolution No. 158-2015, Monroe
6 County O.R. 2751/1868). The Conditional Use Permits approved by the BOCC
7 and Planning Commission for the Oceanside Project include the construction of
8 79 new market rate residential dwelling units, construction of 17 hotel rooms,
9 and construction of a restaurant with up to 150 seats. The project includes
10 maintaining a condominiumized marina (98 wet slips), a boat barn (under
11 condominium ownership), 22 existing, market-rate permanent units (under
12 condominium ownership) and ancillary/accessory buildings (Monroe County
13 Planning Commission Resolution No. P04-14, recorded in Monroe County O.R.
14 Book 2689/Page 1053 (June 13, 2014) and Monroe County Planning Commission
15 Resolution No. P41-14, recorded in Monroe County O.R. Book 2745/Page 889
16 (June 12, 2015).) (Copies of the resolutions for this project, without
17 attachments, are attached to my testimony collectively as Exhibit AMS-4.)

18 Subsequently, in 2015 and 2016, the Building Department issued
19 approximately two dozen building permits in connection with this property. (I
20 can also make copies of building permits available to the Commission upon
21 request.) Oceanside Marina is currently under construction and will be occupied

1 probably in early 2017. Therefore, I expect the majority of the projected
2 wastewater flow from the Oceanside Project to begin before June 2017.
3 According to Mr. Castle's testimony, the Oceanside project will add
4 approximately 26,125 gpd or 271 ERCs.

5

6 **Q. PLEASE SUMMARIZE THE STOCK ISLAND MARINA VILLAGE PROJECT, ITS**
7 **DEVELOPMENT STATUS, AND YOUR EXPECTATIONS FOR THE TIMING OF NEW**
8 **WASTEWATER FLOWS FROM THAT PROJECT AFTER JANUARY 1, 2015.**

9 A. In 2014, Longstock II, LLC received approval from the Board of County
10 Commissioners for a Development Agreement for a project on Shrimp Ave.
11 Longstock also received Planning Commission approval of a Conditional Use
12 Permit to develop the Stock Island Marina Village by adding a 100-room hotel
13 with a 192-seat restaurant and tiki bar. (Development Agreement between
14 Monroe County and Longstock II, LLC, recorded July 30, 2014, in Official Records
15 Book 2696, at Page 1445; Monroe County Resolution No. 177-2014, recorded
16 August 20, 2014, in the Official Records Book 2699, at Page 1761; Monroe
17 County Planning Commission Resolution No. P43-14, recorded April 8, 2015, in
18 Official Records Book 2733, at Page 1848, and recorded August 28, 2015, in
19 Official Records Book 2758, at Page 203.) (Copies of the resolutions approving
20 this project are attached collectively to my testimony collectively as AMS-5.). I
21 have reviewed DEP permit 63485-066-DWC/CM issued for the project, which

1 included three bath houses; a fuel service building; 130 wet slips; a green
2 building; an engine building; a Keytex building; 100 hotel rooms; a 142 seat
3 restaurant and a 50 seat tiki bar ("pool bar"). According to the DEP wastewater
4 permit, the project is expected to add 16,680 gallons per day to the existing
5 30,742, for a total of 47,422 gpd. The reconfiguration of the docks and wet slips
6 and bathhouses for liveboards was done at least a year ago, but the hotel is
7 under construction. The hotel and restaurant are expected to be in service in
8 early to mid-2017 and I believe that the substantial majority of the additional
9 wastewater flow will therefore occur before the end of June 2017. The DEP
10 permit that has been issued is only a dry line permit, because until the KWRU
11 plant expansion is complete the property owner cannot connect to the system.

12
13 **Q. PLEASE SUMMARIZE MONROE COUNTY'S BERNSTEIN PARK PROJECT, ITS**
14 **DEVELOPMENT STATUS, AND YOUR EXPECTATIONS FOR THE TIMING OF NEW**
15 **WASTEWATER FLOWS FROM THAT PROJECT AFTER JANUARY 1, 2015.**

16 **A.** The County is in the process of developing Bernstein Park. The park is located in
17 the middle of South Stock Island. The park is expected to add 1,435 gpd once
18 completed, which is expected to be in mid-2017.

1 **GENERAL OUTLOOK FOR DEVELOPMENT ON SOUTH STOCK ISLAND**

2 Q. **WHAT IS THE GENERAL OUTLOOK FOR ECONOMIC GROWTH AND ADDITIONAL**
3 **DEVELOPMENT ON STOCK ISLAND, AND WHAT, IF ANYTHING, DOES THIS IMPLY**
4 **FOR GROWTH IN THE AMOUNT OF WASTEWATER TREATMENT SERVICE THAT**
5 **KWRU CAN REASONABLY BE EXPECTED TO PROVIDE?**

6 A. The general outlook for economic growth and development on South Stock
7 Island is favorable and positive. Recent trends have generally reflected
8 additional development of high end transient or residential condominium
9 development, as well as commercial developments such as marinas and
10 restaurants. Being located near major employment centers within the City of
11 Key West, it is anticipated there will be additional growth on South Stock Island.

12
13 Q. **ARE YOU AWARE OF ANY SIGNIFICANT EVENTS OR EXPECTED EVENTS, E.G.,**
14 **BUSINESS CLOSINGS OR DEMOLITIONS OF SIGNIFICANT NUMBERS OF**
15 **RESIDENTIAL UNITS, THAT WOULD BE EXPECTED TO REDUCE THE DEMAND FOR**
16 **WASTEWATER TREATMENT SERVICE PROVIDED BY KWRU IN 2016, 2017, AND**
17 **2018?**

18 A. No, I am not aware of any such demand-dampening events either having
19 occurred or expected to occur over this time period.

20

21

1 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

2 A. Yes.

1 MR. WRIGHT: Ms. Santamaria also prepared and
2 caused to be filed exhibits, five prefiled exhibits
3 that have been numbered 42 through 46 in the
4 comprehensive exhibits list, and I would ask that
5 those be received into evidence at this time.

6 CHAIRMAN BROWN: Seeing no objection, we will
7 go ahead and move into the record 42 through 46.

8 (Whereupon, Exhibit Nos. 42-46 was received
9 into evidence.)

10 CHAIRMAN BROWN: Thank you.

11 MR. WRIGHT: Thank you, Madam Chairman.

12 CHAIRMAN BROWN: So I see Mr. Deason in the
13 back, waiting again. Unfortunately, we have to
14 recess right now. I am assume -- so my apologies
15 for not moving forward.

16 We will recess. The service hearing begins at
17 6:00 p.m., and Commissioner Patronis is actually
18 going to preside over that proceeding, and we will
19 see whether -- I am assuming all the parties will
20 stay for that service hearing. So we will see if
21 we can reconvene and get to Mr. Deason after and
22 then conclude until tomorrow. Is it the -- any
23 comments or thoughts on --

24 MR. WRIGHT: Madam Chairman, this might be
25 better off the record, but I will go ahead.

1 As I discussed with Ms. Crawford during the
2 breaks, I have polled all the attorneys, and I
3 believe, at the outside, we have maybe five hours
4 cross-examination for the company's rebuttal
5 witnesses. And per my conversation with Mr. Smith,
6 I believe he has very limited cross-examination for
7 Mr. Deason. And accordingly, I think that if we
8 were to convene at nine o'clock or so tomorrow
9 morning, we wouldn't have any problem finishing
10 tomorrow.

11 CHAIRMAN BROWN: Everyone okay with that?
12 That sounds -- 9:00 a.m. Yeah. That sounds like a
13 great suggestion. Thank you.

14 MR. WRIGHT: My pleasure. Thank you.

15 CHAIRMAN BROWN: So we will recess now, and
16 then we will proceed with the service hearing at
17 six o'clock, and then we will reconvene at 9:00
18 a.m. tomorrow morning with Mr. Deason taking the
19 stand.

20 All right. Thank you. See you all in 25
21 minutes.

22 (Transcript continues in sequence in Volume
23 4.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 18th day of November, 2016.



DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #GG015952
EXPIRES JULY 27, 2020