

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp.

DOCKET NO. 150071-SU
ORDER NO. PSC-17-0091-FOF-SU
ISSUED: March 13, 2017

HARBOR SHORES CONDOMINIUM UNIT OWNERS ASSOCIATION INC.'S MOTION FOR RECONSIDERATION PURSUANT TO RULE 25-22.060, F.A.C.

Harbor Shores Condominium Unit Owners Association Inc. (Harbor Shores) by and through the undersigned representative and pursuant to Rule 25-22,060, Florida Administrative Code, respectfully requests that the Commission reconsider its decision with regard to **Issue VIII. P.** memorialized in **Order No. PSC-17-0091-FOF-SU**, issued March 13, 2017, and states as follows:

1. On July 1, 2015, KWRU filed its application for the rate case at issue in this proceeding. The test year established for final rates was the 13 month average period ended December 31, 2014.
2. On February 24, 2016, the Office of Public Counsel (OPC) filed a Notice of Intervention, and an Order acknowledging intervention was issued on March 18, 2016. The PSC subsequently approved a two-phased rate by Order No. PSC-16-0114-FOF-SU (PAA Order).
3. On April 13, 2016, OPC and Monroe County, Florida filed protests of the PAA Order. On April 18, 2016, Harbor Shores filed a cross-petition. On April 21, 2016, KWRU timely filed a cross-protest.
4. A formal evidentiary hearing in this matter was conducted in Key West on November 7 and 8 2016, Briefs were filed on December 9, 2016.
5. On January 26, 2017, PSC Staff filed its Recommendations, and on March 13, 2017, the PSC issued its Final Order (Order), which brings us to the subject of this motion.

By this motion, Harbor Shores seeks reconsideration of the Commission's decision with regard to Issue VIII. P. Harbor Shores Condominium Unit Owners Association, Inc. Classification:

Harbor Shores contends that the conclusion reached by the PSC erred as to the classification of Harbor Shores from Residential customer to General Service customer while being billed a Base Facility Charge (BFC) based on 69 ERCs and a gallonage charge with a 10,000 gallon cap per ERC.

PSC's decision results in blatant discrimination in that Harbor Shores is being treated

differently than others such as Sunset Marina (SM), Meridian West (MW) and Flagler Village (FV) and this difference is discriminatory.

The PSC has a Statutory obligation not to set unfairly discriminatory rates:

Section 367.081(2)(a)1. “the commission shall, either upon request or upon its own motion, fix rates which are just, reasonable, compensatory and not unfairly discriminatory...”

PSC’s Analysis included the following:

- Quotes: ”Harbor Shores has two FKAA master meters that measure all water flows to the Harbor Shores community and its residents. Harbor Shores believes the HOA should be billed a lower rate based on the meter equivalents for its two FKAA master meters, which is 16 ERCs, much less than the 69 ERCs for the total individual units. In the past, this Commission has analyzed the demand behind a master meter to determine if it is equitable, based on demand and demographics, to be billed based on the meter size for communities such as Harbor Shores. As testified to by witness Johnson, Harbor Shores is a unique situation unlike Sunset Marina, Meridian West and Flagler Village, because the residences within Harbor Shores are individually metered by the FKAA”. And “KWRU’s agreement with Harbor Shores specifies that each unit owner was responsible for paying the Utility’s approved tariff charge of \$2700 per equivalent residential connection (ERC) for a total of 69 ERCs to reflect the capacity Harbor Shores reserved when the system capacity charges were paid. If we were to allow billing based on the size of the two FKAA meters, the Utility would not be adequately compensated for the demand Harbor Shores residents are placing on the system”.
- In the above quotes, the analysis the Commission has done in the past, specifically refers to Order Nos. PSC-16-0525-PAA-WS and PSC-15-0142-PAA-SU and in both of these analysis, there seems to be no mention of unit sub-meters, nor is there any reference that I can find, to residents being individually metered by any authority such as the FKAA. These two Orders have in-depth analysis of the demand for each Mobile Home Park in question and the results would seem to indicate that a reduction in rates and charges was warranted based on overall demand and not on the presence of, or ownership of, sub-meters.

There is no evidence in the KWRU rate case that any in-depth analysis was done to determine the Harbor Shores actual demand, but instead the decision to base the rate on the original 69 ERCs and not on the General Service master meters, seems to have been made simply based on the KWRU contention that Harbor Shores is unique because of its FKAA individual meters.

There is evidence in the case to substantiate the monthly water usage that Harbor Shores places on the KWRU system (Exhibit 89-FKAA two master meters monthly bills at 11/7-8/2016 Hearings) which, in this particular exhibit, is a total of 198,600

gallons. The monthly water usage for all 69 units over the last ten years ranges from approximately 190,000 to 250,000 gallons with an average usage of 220,000 gallons or 23 equivalent ERCs which is about a third of the 690,000 gallons cap that is apparently being used to justify the need to charge a BFC based on 69 ERCs at 10,000 gallons per ERC.

- Questions:

- ◇ How do the individual Harbor Shores sub-meters put any additional demand (total gallons) on KWRU versus the individual sub-meters in Sunset Marina (SM), Meridian West (MW) and Flagler Village (FV)?
- ◇ How is total demand (total gallons) for Harbor Shores on KWRU different than total demand for SM, MW and FV?
- ◇ Why does meter “ownership” make any difference in the demand placed on the KWRU system?
- ◇ If KWRU will not be adequately compensated for Harbor Shores demand, then how is KWRU adequately compensated for the demand caused by SM, MW and FV?
- ◇ Is Flagler Village being billed based on 49 ERCs which is the number of units and the capacity charges they reserved and paid?
- ◇ Is Sunset Marina being billed based on 60 ERCs which is the number of units and the capacity charges they reserved and paid?
- ◇ Is Meridian West being billed on 102 ERCs which is the number of units and the capacity charges they reserved and paid?

Section X Issue KK- KWRU Billing Practices:

In its conclusion on Issue KK , the Commission directed that a full audit and investigation be conducted into KWRU's billing practices in order to determine if any orders, rules, or statutes were violated by the Utility. Since at least two and possibly all three of the properties (Meridian West, Flagler Village and possibly Sunset Marina) are part of this upcoming audit and are also part of our Harbor Shores discriminatory pricing point, the Commission should determine billing practices for each of these properties and verify with FKAA Engineering that there is no demand difference between FKAA installed meters and the private meters installed at each of these properties.

- Fact:

- Harbor Shores is placing the same demand on KWRU's system as SM, MW and FV, yet Harbor Shores HOA is required to pay more than these communities. That is discriminatory.
 - Harbor Shores wants to be treated like these three properties and not unfairly discriminated against. Harbor Shores maintains all the infrastructure behind the two FKAA master meters and Harbor Shores is responsible for all the water that flows through these two master meters. Presumably, this is true for SM, FV and MV.
 - There is no demand difference between a privately owned sub-meter and an FKAA owned sub-meter. Ownership of the meter does not affect the demand placed on KWRU's system.
 - Staff's recommendation focuses on the fact that FKAA owns the meter: however, ownership of the meter is irrelevant and is a distinction without any real difference.
 - Demand should be measured at the master meters for Harbor Shores as it is for SM, MW and FV and not at the sub-meters.
 - Harbor Shores paid the same ERCs per unit as did SM, MW and FV, yet these communities are not paying residential BFCs based on those ERCs. That is discriminatory.
- Law:
 - Treating Harbor Shores different from Sunset Marina, Meridian West and Flagler Village is discriminatory.
 - Harbor Shores should be treated the same as Sunset Marina, Meridian West and Flagler Village.
 - Relief:
 - To be treated equally, Harbor Shores should pay the general service BFC for its two master meters (not its FKAA owned sub-meters) and the same general service gallonage charge that Sunset Marina, Meridian West and Flagler Village pay. Under the new approved tariff rates this would result in an average monthly charge of approximately \$1902.36 (two 2in. master meters @ \$254.88 each plus avg. 220,000 gal. @ \$6.33 per 1000 gal.). Instead Harbor Shores will pay a monthly charge of approximately \$3359.94 (BFC @ \$2198.34 plus avg. 220,000 gal. @ \$5.28 per 1000 gal.), a difference of approximately \$1457.58 a month.
 - If Harbor Shores is going to be charged based on a demand basis, then the

Commission should calculate the actual demand Harbor Shores is placing on KWRU's system. As stated earlier, Harbor Shores estimates its calculated demand rate to be 23 ERCs. While still not addressing the discriminatory and unfair issues, an interim solution may be to charge a BFC based on 23 ERCs and the General Service gallonage rate (23 BFCs @ \$31.86 each plus avg. 220,000 gal @ \$6.33 per 1000 gal for a monthly charge of approximately \$2125.38). This rate would remain in effect until such time as the full audit and investigation referred to in Section X-KK above is complete.

- If the Commission does not agree that Harbor Shores should be charged General Service rates based on its two master meters or based on actual demand then, at the very least, each Harbor Shores resident should be **billed individually by KWRU** and KWRU should be responsible for the issuance and collection of those bills and all other aspects of dealing with 69 individual customers (not Harbor Shores HOA).

Harbor Shores sincerely hopes that the Commission will reconsider the unfair and discriminatory decisions made and revise the Final Order to give Harbor Shores Condominium Unit Owners equal access to the General Service rates that similar communities within the KWRU customer base are receiving.

Respectfully,

/s/ Ann M. Aktabowski

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Harbor Shores Representative

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CERTIFICATE OF CONFERRAL

The undersigned representative conferred as to this motion with the other parties in the case. Counsel for PSC, OPC and County take no position with respect to this Motion. Counsel for KWRU objects to the Motion.

CERTIFICATE OF SERVICE
Docket No. 150071-SU

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Harbor Shores Motion for Reconsideration has been furnished by electronic mail on this 24th day of March 2017, to the following:

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