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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.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 16

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

DATE: Monday, June 5, 2017

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: LINDA BOLES, CRR, RPR
Official FPSC Reporter
(850) 413-6734

P R O C E E D I N G S

1
2 **CHAIRMAN BROWN:** All right. Our last item is
3 a panel comprised of Commissioner Graham, Commissioner
4 Patronis, and myself. And we do have a few folks that
5 will be coming to the bench for this, I believe.

6 We're at Item 16.

7 **MS. HELTON:** Madam Chairman?

8 **CHAIRMAN BROWN:** Yes.

9 **MS. HELTON:** Ms. Brownless has just asked us
10 to confirm that when you deferred Item 4, that what you
11 were in effect doing was denying Duke's request --
12 denying the motion.

13 **CHAIRMAN BROWN:** You want me -- I believe -- I
14 was not the motion maker, Commissioner Patronis was, but
15 I believe that's what we did. Commissioner Patronis?

16 **COMMISSIONER PATRONIS:** Yes.

17 **CHAIRMAN BROWN:** He says yes.

18 **MS. BROWNLESS:** Thank you, ma'am.

19 **CHAIRMAN BROWN:** All right. We are on Item
20 16, and I believe Ms. Aktabowski is on the phone.
21 Ms. Aktabowski, are you there?

22 **MS. AKTABOWSKI:** I am.

23 **CHAIRMAN BROWN:** Thank you. If you could just
24 put it on mute until we get to you. We are going to
25 have staff introduce the item first, please.

1 **MS. AKTABOWSKI:** Thank you.

2 **CHAIRMAN BROWN:** All right. And staff.

3 **MS. MAPP:** Good afternoon, Commissioners.
4 Kyeshia Mapp for Commission staff.

5 Item 16 is staff's recommendation on two
6 separate motions for reconsideration that were filed in
7 Docket 150071-SU by KW Resort Utilities Corporation,
8 KWRU, and Harbor Shores Condominium Unit Owners
9 Association, Inc. This docket went to hearing on
10 November 7th, 2016, in Key West, Florida, and this
11 Commission entered its final order on March 13th, 2017.

12 The Office of Public Counsel and Monroe County
13 filed a joint response in opposition to the KWRU's
14 motion for reconsideration, and KWRU has filed a
15 response in opposition to Harbor Shore's motion. All
16 parties are present, with Harbor Shores participating
17 telephonically, and staff is available for any
18 questions.

19 **CHAIRMAN BROWN:** Thank you. Ms. Aktabowski
20 had previously requested to address the Commission. And
21 there were no objections from any of the parties, so I
22 said that would not be a problem. So Ms. Aktabowski is
23 going to address the Commission. She has five minutes.
24 The parties may respond to any of the comments that she
25 raises after that in whatever order you'd like to go. I

1 imagine the County and OPC won't have any comments, so
2 we'll go directly -- if you don't, we'll go directly to
3 the utility. And with that, Ms. Aktabowski, hello.

4 **MS. AKTABOWSKI:** Hello.

5 **CHAIRMAN BROWN:** How is the weather down
6 there?

7 (Technical difficulties with sound system.)

8 Didn't hear a word you said.

9 **MS. AKTABOWSKI:** Oh, no. Really?

10 **CHAIRMAN BROWN:** I heard that.

11 **MS. AKTABOWSKI:** Okay. I said it's raining.
12 Can you hear me now?

13 **CHAIRMAN BROWN:** Oh, yes. Yes, I can hear you
14 now. Good job.

15 **MS. AKTABOWSKI:** Okay. Good.

16 **CHAIRMAN BROWN:** All right. You have five
17 minutes, if you'd like to address us.

18 **MS. AKTABOWSKI:** All right. Thank you.

19 Thank you and good afternoon, Commissioners
20 and staff. On March 13th, as you've just heard, you
21 issued a final order regarding KWRU's application for an
22 increase in wastewater rates. In this order you created
23 a special rate for Harbor Shores. The staff analysis
24 agreed that Harbor Shores should be classified as a
25 (inaudible) service customer, and staff also created a

1 new rate to be based on 69 times the residential base
2 facility charge, BFC, of \$31.86 for a bulk BFC of
3 \$2,198.34. That's \$5.28 per 1,000 gallons with a
4 690,000 gallon cap equal to a 10,000 gallon cap per
5 unit.

6 Staff stated that this rate base should
7 ultimately result in no overall change to Harbor Shore's
8 bill. I will address the fallacy of that statement
9 later.

10 In reaching this special rate for Harbor
11 Shores, staff claims that Harbor Shores is a unique
12 situation, unlike Sunset Marina, Meridian West, and
13 Flagler Village, three similar communities on Stock
14 Island, because the residents within Harbor Shores are
15 individually metered by the FKAAs.

16 Staff went on to say that, and I quote, if we
17 were to allow billing based on the size of the two FKAAs
18 meters, the utility would not be adequately compensated
19 for the demand Harbor Shores' residents are placing on
20 the system, unquote.

21 On March 24th Harbor Shores filed a motion for
22 reconsideration based on our belief that the PSC
23 decision is arbitrary, capricious, and resulted in
24 blatant discrimination in that Harbor Shores has been
25 treated differently than Sunset Marina, Meridian West,

1 and Flagler Village, who are general service customers
2 paying general service rates based on master meters and
3 general service gallonage rates. Staff has recommended
4 that our motion for reconsideration be denied, but now
5 the reason for denial, aside from the 69 ERCs we
6 reserved ten years ago, is based on the ownership of the
7 sub meters, which, and again I quote, quickly
8 differentiates Harbor Shores from general service
9 customers and allows the Commission to directly assess
10 the ERCs of Harbor Shores' residents, unquote.

11 Pardon my ignorance, folks, but I have no idea
12 what that statement means. Harbor Shores has sub meters
13 and master meters. The other three communities have
14 meters and master meters. How do the individual Harbor
15 Shores sub meters put any additional demand on KWRU
16 versus the individual sub meters in Sunset Marina,
17 Meridian West, and Flagler Village? How is total demand
18 for Harbor Shores on KWRU different than the total
19 demand for Sunset Marina, Meridian West, and Flagler
20 Village? Why does meter ownership make any difference
21 in the demand placed on the KWRU system? If KWRU will
22 not be adequately compensated for Harbor Shores' demand,
23 then how is KWRU adequately compensated for the demand
24 caused by Sunset Marina, Meridian West, and Flagler
25 Village?

1 Harbor Shores reserved 69 ERCs for 69 units;
2 Flagler Village reserved 49 ERCs for 49 units; Sunset
3 Marina reserved 60 ERCs for 60 units; and Meridian West
4 reserved 102 ERCs for 102 units; yet only Harbor Shores
5 is being charged a bulk BFC based on their 69 reserved
6 ERCs.

7 **CHAIRMAN BROWN:** You have one minute left,
8 Ms. Aktabowski, one minute left.

9 **MS. AKTABOWSKI:** All right. Okay. The others
10 are being charged based on the master meters and general
11 service gallonage rates. This is discriminatory and
12 unfair.

13 KWRU argued that the billing determinant
14 should be adjusted if Harbor Shores is classified as a
15 general service customer. The difference in monthly
16 charges for Harbor Shores is, on average, 12- to
17 \$1,400 -- a big deal for us, but I imagine not a great
18 (inaudible) for KWRU.

19 With regard to the issue of no overall change
20 to Harbor Shores' bill, has the Commission considered
21 the impact of the bulk rate based on 69 units if a
22 hurricane destroyed several or many units? And if they
23 are not permitted to rebuild, then will the remaining
24 units be subject to the bulk rate, and will they then be
25 paying more than regular residential customers,

1 nevermind general service customers?

2 **CHAIRMAN BROWN:** Thank you. Can you wrap it
3 up, please?

4 **MS. AKTABOWSKI:** Yes. If you cannot agree
5 that we are general service with general service rates,
6 then at least let the residents be treated as residents
7 by KWRU individually, and we will work with KWRU to
8 smooth the transition. Thank you.

9 **CHAIRMAN BROWN:** Thank you. If you could
10 please mute your phone so that we don't hear any of the
11 feedback.

12 **MS. AKTABOWSKI:** Okay.

13 **CHAIRMAN BROWN:** Thank you very much.
14 All right. Assuming that Public -- you have
15 no --

16 **MR. SAYLER:** Erik Sayler with Public Counsel's
17 Office. We don't have any questions or response related
18 to our office.

19 **CHAIRMAN BROWN:** Thank you.

20 **MR. WRIGHT:** Schef Wright representing Monroe
21 County. We have no questions or response to
22 Ms. Aktabowski's arguments, nor to -- I don't think
23 we're going to have any to KWRU's as long as they stay
24 on hers.

25 **CHAIRMAN BROWN:** Thank you.

1 I bet Mr. Friedman does have some response.

2 **MR. FRIEDMAN:** Thank you. I do. Marty
3 Friedman on behalf of KW Resort Utility.

4 As we pointed out and as staff pointed out in
5 the staff recommendation, there is a big difference
6 between those two subdivisions, and that is -- or those
7 three developments, and that is, as Ms. Aktabowski
8 pointed out, Harbor Shores is the only one that has Keys
9 Aqueduct Authority water meters. And so we have no
10 control over the, the meters behind the, behind the Keys
11 meters in these other developments. And I think that is
12 a salient factor because, as you know, when this case --
13 one of the things the Commission was trying to do was to
14 get away from a very unique billing structure that
15 existed at KW because of the uniqueness of the customer
16 base to one that is based on a simple KW meter billing,
17 which, which certainly simplifies the billing process
18 and will make it easier to deal with in the future
19 because the past rate structure was one that was very
20 difficult to apply at all times. And, in fact, there's
21 a docket open to deal, to deal with that.

22 And by going -- by billing off of KW -- by
23 billing off the Keys Aqueduct Authority meters, we won't
24 have that problem in the future. And as the, the staff
25 pointed out, they went and did a calculation of the

1 demand and showed that the demand for those customers is
2 going to be the same as the demand for any other single
3 customer.

4 There's no evidence in the record that that is
5 also true of these other developments that
6 Ms. Aktabowski is trying to say they are similar to.
7 There is nothing in the record that discusses the
8 consumption of each of those residences so that we can
9 make that evaluation as to whether the consumption
10 patterns for those other developments is, in fact, the
11 same as it is for Harbor Shores and every other single
12 family residence. And as a result, I would -- I think
13 it's appropriate to deny her motion for reconsideration.
14 Thank you.

15 **CHAIRMAN BROWN:** Thank you.

16 All right. Commissioners, this is Issue 2.
17 We'll take that up first since we heard oral argument on
18 that. Again, it's limited to Commissioner Patronis and
19 Commissioner Graham and myself.

20 Commissioners -- or staff, before we get to
21 Commissioners, staff, do you have any comments to add?
22 No comments.

23 Commissioners, any questions or comments on
24 Issue 2? If not --

25 **COMMISSIONER GRAHAM:** Move staff

1 recommendation.

2 **CHAIRMAN BROWN:** Thank you.

3 **COMMISSIONER PATRONIS:** Second.

4 **CHAIRMAN BROWN:** All those in favor, say aye.

5 (Vote taken.)

6 Okay. The motion passes.

7 Circling back to Issue 1, which I believe was
8 very -- the motion was very clear on its face and the
9 staff recommendation is straightforward.

10 Commissioners, any questions or comments on
11 Issue 1? Okay.

12 **COMMISSIONER GRAHAM:** Move staff
13 recommendation.

14 **COMMISSIONER PATRONIS:** Second.

15 **CHAIRMAN BROWN:** Okay. All those in favor,
16 say aye.

17 (Vote taken.)

18 Thank you. It passes. Thank you for your
19 participation.

20 **MR. WRIGHT:** Thank you, Madam Chairman. Thank
21 you, Commissioners.

22 **CHAIRMAN BROWN:** Thank you.

23 Thank you, Ms. Aktabowski.

24 **MR. SAYLER:** Thank you, Madam Chair.

25 **CHAIRMAN BROWN:** Thank you.

1 With that, that concludes our Agenda
2 Conference, and we will be convening Internal Affairs in
3 five minutes in this building.

4 Oh, pardon me. I am so sorry. We have
5 Issue 3, which is the close the docket issue. Thank
6 you. On -- my apologies. We are on Issue 16 still in
7 the Agenda Conference. My apologies. Can I get a
8 motion on Issue 3?

9 **COMMISSIONER GRAHAM:** I think you
10 misunderstood my motion. It was all remaining issues.

11 **CHAIRMAN BROWN:** Even better, even better.

12 (Laughter.)

13 I know. All right. Thank you. This is -- if
14 that is the case, then this is adjourned officially.
15 We'll see you in five minutes in this room. Thank you.

16 (Commission Conference adjourned at 2:34 p.m.)

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1 STATE OF FLORIDA)
 2 : CERTIFICATE OF REPORTER
 3 COUNTY OF LEON)

4 I, LINDA BOLES, CRR, RPR, Official Commission
 5 Reporter, do hereby certify that the foregoing
 6 proceeding was heard at the time and place herein
 7 stated.

8 IT IS FURTHER CERTIFIED that I stenographically
 9 reported the said proceedings; that the same has been
 10 transcribed under my direct supervision; and that this
 11 transcript constitutes a true transcription of my notes
 12 of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
 14 employee, attorney, or counsel of any of the parties,
 15 nor am I a relative or employee of any of the parties'
 16 attorney or counsel connected with the action, nor am I
 17 financially interested in the action.

18 DATED THIS 12th day of June, 2017.

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Linda Boles

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