

State of Florida



Public Service Commission

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

-M-E-M-O-R-A-N-D-U-M-

DATE: November 7, 2017

TO: Carlotta Stauffer, Commission Clerk

FROM: Margo A. DuVal, Senior Attorney, Office of General Counsel

RE: Docket No. 20170200-WU - Initiation of show cause proceedings against Kincaid Hills Water Company, in Alachua County, for noncompliance with Sections 350.113, 350.117, 367.121, and 367.145, Florida Statutes, and Rules 25-30.110, 25-30.120, 25-30.355, and 25-22.032, Florida Administrative Code.

Please place the attached correspondence from Berdell Knowles, Jr. in the above referenced docket file.

Thank you.

MAD/as

November 7, 2017

Ms. Margo DuVal, Staff and Members of the
Public Service Commission of the State of Florida
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Ms. DuVal, Staff, and Members of the Commission,

I am writing to follow-up on conversations held with staff last Friday where I became aware of the outstanding issues and became engaged with assisting Mr. Berdell Knowles Sr. (“Owner”) to reach required resolutions. Although he is unable to participate, and I will try to be as expedient as possible on his behalf.

First, I want to acknowledge the frustration this case has caused for staff, due in large part to a lack of responsiveness from the Owner. He has been solely responsible for safely operating this aging water utility, serving one of Gainesville’s most economically distressed communities, for the past 30 years (since the mid-80s). As the filings provided by staff show, he is failing to keep up with the administrative obligations with greater regularity as both he and the system he financed with his life’s savings continue to age. My last sustained engagement with KHWC was in 2013-14, where I assisted the owner to resolve significant outstanding administrative issues (see appendix), working closely with Ms. Christine Francescani and DEP. At that time, I believed that my temporary efforts – which included investing over \$50K in personal capital to refurbish KHWC equipment, making payment on outstanding fees, hiring a 3rd party licensed operator, and other provisions – would provide a medium-term (5yr) solution. At that time, I planned to establish residence in Florida by the end of the 5yr period (2020) to provide permanent administrative support for the system. As we now see, I underestimated how long the Owner could maintain the standing earned from my intervention at that time and I have accelerated my timeline.

The current filing and associated documents provides a partial view of the Owner’s record of service and responsibility. Specifically, there are 6 issues (3 of which are due to late RAFs):

1. Submission of additional (to be mutually determined) payments towards outstanding RAFs,
2. Continuing to work with Staff regarding repayment of outstanding RAFs (will seek clarification to confirm this is disparate from #1, and how),
3. Update corporate status with Florida Secretary of State,
4. Apply for Staff Assisted Rate Case,
5. Submit 2016 RAFs
6. Respond to three (3) customer complaints, and notify staff in writing of the response.

While I do not contend with the implication that the Owner does not have the capacity to fulfill the responsibilities to the PSC, I would like to offer the following high-level overview as to

how/why KHWC might show why the Commission might consider an alternative to staff's recommendations to impose previously abated fees or to initiate Certificate Revocation proceedings:

1. If permitted/mandated to assume control, I can work with staff immediately to determine a payment plan for outstanding RAFs, and follow-up with the Commission on the outcome by a designated time period.
2. Similarly, if permitted/mandated to assume control, I can work with staff immediately to determine a payment plan for outstanding RAFs, and follow-up with the Commission on the outcome by a designated time period.
3. If permitted/mandated to assume control, I would like to establish a corporation with Florida Secretary of State immediately.
4. If permitted/mandated to assume control, I would like to apply for a SARC no later than Q1, 2018. This is the key to making the system self-sustainable. The Owner had been reluctant to take this step, and as a result, the system has missed decades of rate adjustments and is operating at a loss. According to the Michael Smallridge, one of the State's leading "receivers" of Certificate-revoked or distressed water systems, if he were to "receive" KHWC, it would take him nearly 2 years to complete the ownership change and rate case. This means it would be 2 years longer until KHWC was self-sustaining. I fully recognize the importance of completing the SARC as soon as possible, and am committed to doing so.
5. If permitted/mandated to assume control, I can take care of the 2016 RAFs immediately. In fact, I attempted to do so on 8/31 while on medical leave, but was advised that I could not complete it in time, as there are no provisions for over the phone payment.
6. The customers who made complaints have been contacted by KHWC via telephone and in person during monthly meter-reading (in this small community, KHWC is very visible and accessible during meter-reading). While it should be noted that KHWC, like most utilities, receives a fair number of nuisance complaints without merit, KHWC has failed to provide the proper documentation to the PSC. KHWC will follow up with the three (3) complaints again, and will provide proper documentation to the PSC 14 days, if permitted.

Additionally, I would like to add that there were extenuating circumstances this calendar year that included several major leaks/incursions into the distribution system, my personal medical leave (from all business activities for several months, which made me unavailable to assist/monitor what was going on with KHWC and the PSC issues adequately) due to serious illness, and an unusually disruptive hurricane season. I recognize that these circumstances do NOT excuse the mistakes, I would like to point out that we were able to maintain continuous safe water distribution to our customers. The Owner and I personally were onsite multiple

times between 2am – 6am to operate back-up generators during power outages, and to repair leaks/incursions to minimize service disruptions to our customers, just as we have done for the past 30 years.

I regret that the Commission had to take this step to initiate a “show cause”, but I urge you to strongly consider allowing me an opportunity to correct the issues with your full support, as I have successfully done in the past, without taking any further action. I truly believe working through these matters promptly will affect the best possible outcome for us, our customers, our community, and the PSC’s mission.

Thank you for taking the time to consider our situation. I look forward to working with you in the near future, and to collaborating with you to effect the best possible overall outcome. If you require any additional information, please feel free to contact me at any time at (310) 821-1235 via telephone, or via email at berdell@alum.mit.edu. Thank you again for your time and consideration.

Sincerely,



Berdell Knowles, Jr.

Appendix

1. Issues successfully resolved during “good faith” period with DEP:
 - a. Secured private capital to refurbished feeder tank and other mandated maintenance items.
 - b. Repaired back-up generator
 - c. Completed all outstanding testing and reporting, and implemented management plan.
 - d. Re-classified system down to Class C (by reducing distribution capacity of system)
 - e. Retained certified operator to ensure compliance with DEP requirements.
 - f. Developed emergency management collateral (maps, etc.)
 - g. Resolved agreed-upon financial matters, resulting in the Agreed Order and associated considerations made for KHWI to recover to self-sustainability.