

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 20170141-SU

**K W RESORT UTILITIES CORP.'S  
POST-HEARING STATEMENT OF ISSUES AND POSITIONS**

K W RESORT UTILITIES CORP. ("KWRU"), by and through its undersigned attorneys,  
and pursuant to Order No. PSC-18-0242-PHO-SU files this Post-Hearing Statement of Issues and  
Positions.

APPEARANCES:

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## **ISSUES AND POSITIONS:**

**ISSUE 1: Is the quality of service provided by K W Resort satisfactory?**

**Position:** \*\*Yes.\*\*

**Argument:** Quality of service is evaluated by the Commission from three components – quality of the utility’s product, operating conditions, and attempts to address customer satisfaction, each of which will be addressed separately.

### **Quality of the Utility’s Product**

The Service Hearing in this proceeding revealed no complaints about quality of service, only about paying more for services received. The DEP has received no complaints regarding odors and there were no notices of violation issued. See Testimony of Christopher Johnson, Transcript Vol. 5, pp. 706 – 707; Ex. 109. No customers at either of the two customer service hearings complained about odors or other operational malfunctions.

### **Operating Conditions**

The Florida Department of Environmental Protection (“DEP”) is the primary State agency with jurisdiction over the operational conditions of wastewater systems. There is no indication that KWRU’s quality of service operating conditions were substandard or unsatisfactory in any way. The Discharge Monitoring Reports for the Test Year and previous two years do not disclose any deficiencies (Exhibit 4). Further, the most recent DEP inspection found the facility “in compliance with the Department’s rules and regulations”. (Exhibit 4). During the Test Year there were two minor spills (Exhibit 83). Neither were of significance to require DEP action.

Intervenor, Monroe County offered into evidence a Wastewater Malfunction Report (Exhibit 138) and an email to DEP reporting a spill (Exhibit 139). Other than introducing the two documents, the County did not elaborate. Both occurred substantially after the test year and were minor spills that were contained on the ground, nor has either resulted in any violation or administrative proceeding being opened to investigate the issues by DEP. Due to the insignificant nature of these events and their occurrence after the test year, they are insufficient to have any bearing on KWRU’s quality of service operating conditions.

## **Attempt to Address Customer Satisfaction**

The Commission did not receive any billing or service complaints during the Test Year (Exhibit 4). The only complaint raised at the customer service hearings relevant to this element of customer service was from Mr. Birrell who was frustrated that he could not get connected to the wastewater system. Service Hearing p. 40-43. Mr. Birrell had previously be advised of his options, but did not choose to pay the cost of the infrastructure, but rather has chosen to await the County-funded line which will allow him to connect. Johnson- Vol. 7 pp. 1044-1046.

### Rate Base

**ISSUE 2: Was the Utility’s use of single source bidding reasonable and prudent for certain pro forma plant additions, and if not, what action should the Commission take regarding these pro forma projects?**

**Position:** \*\*Yes.\*\*

**Argument:** Yes. Each project asserted to be at issue is addressed as follows:

- 1) Wastewater Treatment Plant Rehabilitation. As testified by Professional Engineer Edward R. Castle in his rebuttal testimony with regard to the plant rehabilitation, the sole source bidder was the original designer and the modifier (to meet AWT standards) of the unique treatment trains requiring refurbishment and is the only potential provider with access to detailed designs and specifications for the replacement components. (Castle – Volume 4, pp. 677-678). Further, as testified by Witness Johnson in his rebuttal testimony, the savings alleged to be available based on a “similar” project where competitive bids were obtained are illusory when the cost of developing designs and specifications of the bid process are considered. (Johnson, Volume 6, pp. 914-916).

Witness Woodcock claims that not bidding this project was not reasonable and prudent because he believes two other companies may have bid on the project based on the Wekiva wastewater treatment plant rehabilitation undertaken by UIF. Because of this Woodcock argues a reduction of 11.7% should be applied to the project’s cost due to not obtaining competitive bids. This percentage was derived from the difference between the highest and lowest bids for that UIF project. (Woodcock - Vol. 3, p, 343). He admitted that he did not review the difference between the high bid and low bid in any of the other 39 projects in that rate case to determine whether the difference was greater or lesser than 11.7% (Woodcock – Vol 3, p 365). He further admitted that Evoqua may have been the lowest bidder even if the project had been bid. (Woodcock – Vol. 3, pp. 366-367).

When Staff inquired to Woodcock as to when sole source bidding is reasonable and prudent and is utilized he stated that one such instance was when the project

involves proprietary information. *See* Transcript, Volume 3, p. 377. Witness Castle specifically testified that the design and specifications of the parts utilized in the Evoqua Davco plant are the proprietary information of Evoqua. *See* Transcript, Volume 4, pp. 709-710. As such, no other company has the dimensions and specifications for the fabricated parts being repaired or replaced. Castle requested copies of the specifications and designs, which Evoqua declined to provide. Because the information is proprietary and Evoqua declined to provide the specifications and designs, Castle estimated the additional cost for designing the parts and creating bid documents would be \$170,000. *See* Transcript, Volume 4 p 708, a 20% increase of the current project cost. Additionally, Castle opined there was still a concern the parts would not be the proper size, potentially affecting the ability of the plant to meet the stringent standards of Advanced Wastewater Treatment. Moreover, Castle stated there would be an additional cost for Construction Engineering Inspections. *Id.* at p. 709. These factors all culminated in the determination and recommendation by Castle to determine Evoqua as a sole source bidder for the wastewater treatment plant project. (*Id.* at pp. 678-682).

Mr. Woodcock also recommended the removal of \$7,205.75 in engineering costs from this project since he did not think it was related to the WWTP rehabilitation project. However, under cross examination, Mr. Woodcock admitted that the amount was reasonably incurred by KWRU and should be recovered by KWRU. (Woodcock – Vol. 3, p 367). Thus, if such amount is excluded from rate base, it should be included in the contractual services – engineering account.

2) LIFT STATION L2A - As testified by KWRU President Christopher A. Johnson in his rebuttal testimony with regard to the L2A Lift Station Replacement, Wharton Smith declined to bid based on mobilization costs and previous bids on a functionally identical lift station. *See* Transcript, Volume 2, p. 167. As testified by Johnson, a competitive bid is a bidding process where two companies or more bid a project. *See* Transcript, Volume 7, p. 991. KWRU attempted to competitively bid the project, but the other qualified bidder did not desire to bid because it stated it could not compete with BL Beneway. *See* Transcript, Volume 6, p. 887-888. Mr. Johnson further explained that contractors are in short supply post-Hurricane Irma. Specifically, "...low margin bids are difficult to come by as a result of the glut of contractor work created by Hurricane Irma" *See* Transcript, Volume 6, p 888. KWRU attempted to bid the project, but was unable to obtain qualified bidders willing to bid, therefore its actions are reasonable and prudent to select a contractor that has previously bid and completed the same project within a block.

3) MODULAR OFFICE SPACE - As testified by Pabian Outdoor-Southeast, Inc. President Robert C. Pabian in his rebuttal testimony with regard to the new modular office, the modular vendor engaged by KWRU works with multiple modular manufacturers to obtain the best price and value. Mr. Pabian brought the project to three modular builders, Jacobsen, Palm Harbor, and Champion. Jacobsen refused to bid as it has been too busy after the hurricane season, Palm Harbor did not provide a cost within the not to exceed cost required by KWRU. Champion

was therefore selected by Pabian as it met the not to exceed cost required by KWRU. Therefore, this project was not a sole source bid, but was rather subject to a competitive bid which Champion prevailed. *See* Transcript, Volume 4, pp. 713-714, 716-717.

**ISSUE 3: What adjustments, if any, should be made to account for the audit findings related to rate base?**

**Position:** \*\*None.\*\*

**Argument:** With respect to Audit Finding 1, all Commission Ordered adjustments from the prior rate case were recorded on the Company books. Both Witness Swain and Witness Glover agree that several of the adjustments were recorded, however to incorrect accounts. *See* Transcript, Volume 5, pp 762-763, Exhibit 55 and Exhibit 56. *See* Transcript, Volume 4, page 666. Based on information provided by KWRU Witness Glover deleted Audit Finding 2. *Id.* at page 664.

**ISSUE 4: What is the appropriate amount of plant in service to be included in rate base?**

**Position:** \*\*\$18,877,125\*\*

**Argument:** Based on Glover's revised testimony and the MFRs sponsored by Swain, there is no disagreement between Swain and Glover as to the appropriate amount of plant in service of \$13,541,772 prior to additions of pro forma plant and retirements. *See* Transcript, Volume 4, p. 666.

KWRU's position in the Prehearing Order was that the appropriate amount of plant in service \$19,252,125. However, this amount has been altered due to known and measurable updates to the costs and retirements to be \$18,877,125, as identified in Swain's rebuttal testimony Schedule A-2 as supported by Schedules A-3 and A-6. Swain provides her schedule in A-3 schedule on the following page. *See* Transcript, Volume 5, pp. 792-793, 795, 804-807.

No witness disputes the projects are reasonable and prudent and are required for operation of the plant. Witnesses Woodcock and Schultz argue that updates after the MFRs should not be included. This is in direct derogation of PSC policy to update costs during the pendency of a rate case based on known and measurable information. *See* PSC Memorandum Document No. 06714-13, issued November 1, 2013, in Docket No. 130025-WU, In re: Application for increase in water rates in Highland County by Placid Lakes Utilities, Inc., p. 25 ("Second, Placid Lakes acknowledged that it is impossible to predict the matching expense of employee contributions. Ratemaking is prospective in nature, and it is Commission practice

to make known and measurable changes<sup>1</sup>. As such, alternative staff believes any proposed allowance of 401K plan costs would be somewhat arbitrary because there is no way to accurately account for what the employee contributions would be without any history.”); Order No. PSC-05-0624-PAA-WS, issued June 7, 2005, in Docket No. 040450-WS, In re: Application for increase in water rates in Pasco County by Colonial Manor Utility Company, p. 10 (“Fourth, the Utility also provided an estimate of \$4,323 for brine waste disposal costs associate with the new treatment system. This estimate was derived by using projected flows to determine the amount of brine waste generated, current landfill charges for regular wastewater treatment plant sludge hauling, and transportation costs. Although Colonial did not initially request this pro forma expense in its filing, we find this expense is a known and measurable change that shall be allowed for rate setting purposes.”); Order No. PSC-12-0179-FOF-EI, issued April 3, 2012, in Docket No. 110138-EI, In re Petition for increase in rates by Gulf Power Company, p. 12

The Commission has implemented this policy by various means including adjustments for known and measurable changes and allowing subsequent year adjustment in rates.

Witness Deason further specified that the aforementioned policy is reflected in statute:

Section 366.076(2), F.S., authorizes the Commission to adopt rules that provide for “adjustments of rate based on revenues and costs during the period new rates are to be in effect and for incremental adjustments in rates for subsequent periods.” The Commission adopted Rule 25-6.0435, F.A.C., to implement this statutory provision.

Witness Deason testified that our authority to set rates on a going-forward basis has been address by the Florida Supreme Court. In a 1985 appeal of our order granting FPL a rate increase for 1984 and a subsequent year adjustment for 1985, the Supreme Court found:

At the heart of this dispute is the authority of [the] PSC to combat “regulatory lag” by granting prospective rate increases which enable utilities to earn a fair and reasonable return on their investments. We long ago recognized that rates are fixed for the future and that it is inappropriate for

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<sup>1</sup> See Order Nos. PSC-12-0179-FOF-EI, issued April 13, 2012, in Docket No. 110138-EI, In re: Petition for increase in rates by Gulf Power Company, pp. 11-12; PSC-11-0199-PAA-WU, issued April 22, 2011, in Docket No. 100149-WU, In re: Application for increase in water rates in Lee County by Ni Florida, LLC, p. 9; and PSC-08-0622-PAA-WS, issued September 24, 2008, in Docket No. 060540-WU, In re: Application for increase in water rates in Pasco County by Colonial Manor Utility Company, p. 10.

[the] PSC to recognize factors which affect future rates and to grant prospective rate increase based on these factors.<sup>2</sup>

Gulf Witness Deason asserted that OPC's position on this issue, if adopted, would result in regulatory lag, which is the difference in time between when a change in rates is needed due to changes in costs, and when rate change can be implemented. He stated that the current rate case is an appropriate vehicle to recognize the costs of the turbine upgrades. Ignoring the costs now and requiring Gulf to seek recovery by other means would only add an element of increased risk and additional regulatory costs, and this would not be in the customers' best interest.

For KWRU, the Wastewater Treatment Plant was updated to include the cost of draining the plants and hauling the sludge and a SPARQ test. No surebuttal testimony disputes the reasonableness or prudence. As to the chlorine contact chamber, the cost of housing was increased by the actual costs, which are known and measurable. The generator was updated by the actual purchase of the generator and actual bids for the foundation. The tow behind generator was purchased and the actual cost was included. The Service Truck was purchased and an engine replacement cost was included, which cost of the service truck and engine replacement did not exceed the original cost estimate. The Sandsifter was purchased adjusting the cost downward and the Telephone System cost was revised based on the price invoice.

The MFRs contained estimates which have now been refined by invoices and contracts which constitute known and measurable costs the Utility.

Also, retirements were included which reduced the total plant in service and corresponding adjustments were made to depreciation based on known and measurable costs. The total adjustments to plant in service based on the pro forma adjustments and retirements is \$5,335,353, which added to \$13,541,772 equals \$18,877,125.

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<sup>2</sup> Floridians United for Safe Energy, Inc. v. Public Service Commission, 475 So.2d 241, 242 (Fla. 1985) (citations omitted).

<b>(A) Utility Plant in Service</b>	
(1) Reclass AWT Plant Expansion	
354.4 Structures & Improvement	\$ (544,573)
364.2 Flow Measuring Devices	24,201
380.4 Treatment & Disposal Equipment	489,573
381.4 Plant Sewers	30,800
(2) Reclass AWT Plant Expansion that should have been expensed	
354.4 Structures & Improvement	(405)
(3) Annualize AWT Plant Expansion	
354.4 Structures & Improvement	2,383,494
364.2 Flow Measuring Devices	54,451
380.4 Treatment & Disposal Equipment	1,101,539
381.4 Plant Sewers	69,300
(4) 354.4 Retire Vacuum Structure	(390,285)
Total Test Year Adjustment to Utility Plant in Service	\$ 3,218,095
(5) Pro Forma Plant Additions:	
354.3 Lift Station	146,393
380.4 WWTP Rehabilitation	1,165,523
380.4 Chlorine Contact Chamber	1,109,960
380.4 Sludge Drying Beds	15,450
380.4 Generator	390,551
371.3 Tow behind generator	57,916
396.7 Telephone System	11,009
391.7 Service Truck with Crane	65,105
354.7 Office Structures & Improvements	288,000
395.7 New sandsifter	43,110
(6) Plant Retirements due to Pro Forma Plant Additions	
395.7 Retire old sandsifter	(36,443)
354.5 Retire old office building	(68,795)
371.3 Retire old Lift Station	(109,795)
380.4 Retire old Chlorine Contact Chamber	(832,470)
380.4 Retire old Generator	(128,257)
Total Pro Forma Adjustment to Utility Plant in Service	\$ 2,117,258
<b>Total Adjustments to Utility Plant in Service</b>	<b>\$ 5,335,353</b>

Exhibit 54

**ISSUE 5: What is the appropriate amount of accumulated depreciation to be included in rate base?**

**Position:** \*\*\$5,039,764\*\*

**Argument:** The MFRs sponsored in Swain's direct provide that the total accumulated depreciation should be \$6,490,653. After Schultz direct testimony identified additional retirements that should be made, Swain revised the accumulated depreciation to account for the retirements. Furthermore, Swain explained corrections to the retirement adjustments identified by Schulz, who used 75% of the replacement cost, as is Commission policy when there is not cost information available. Swain was able to find the cost of certain of the assets, as well as the date those assets were recorded to use for the adjustments. Therefore, the appropriate



amount of accumulated depreciation is \$5,140,844 as provided in Swain Exhibit 54. See Transcript, Volume 5, pp. 770-773. See also Exhibit 56.

Further adjustments to reduce accumulated depreciation totaling \$101,079 are required to correct the annualization adjustment made in the MFRs as Swain testified, which were not included in Exhibit 54. *Id.* at pp. 768-770.

	<u>Accumulated Depreciation</u>	
	1	2
354.4 Structures & Improvements	(63,736)	(29,498)
360.2 Collection Sewer Force	(3,839)	
364.2 Flow Measuring Devices	(7,865)	7,865
371.3 Pumping Equipment	(764)	
375.6 Reuse Trans/Dist	(2,358)	
380.4 Treatment & Disposal Equipment	(44,951)	44,198
381.4 Plant Sewers	(1,430)	1,430
390.7 Office Furniture	<u>(132)</u>	<u>0</u>
	<u>(125,074)</u>	<u>23,995</u>

**(D) Accumulated Depreciation**

(1) Adjustment to annualize Accum Depr for plant added during the Test Year	
354.4 Structures & Improvements	63,736
360.2 Collection Sewer Force	3,839
364.2 Flow Measuring Devices	7,865
371.3 Pumping Equipment	764
375.6 Reuse Trans/Dist	2,358
380.4 Treatment & Disposal Equipment	44,951
381.4 Plant Sewers	1,430
390.7 Office Furniture	132
(2)354.4 Retire Vacuum Structure	<u>(390,285)</u>
Total Test Year Adjustment to Accumulated Depreciation	<u><u>(265,211)</u></u>

(3) Pro Forma Plant Additions	
354.3 Replace Lift Station	2,437
380.4 WWTP Rehabilitation	32,402
380.4 Chlorine Contact Chamber	30,857
380.4 Sludge Drying Beds	430
380.4 Generator	10,857
371.3 Tow behind generator	1,610
396.7 Telephone System	550
391.7 Service Truck with Crane	5,427
354.7 Office Structures & Improvements	4,795
395.7 New sandsifter	1,796
(4) Pro Forma Plant Retirements	
395.7 Retire old sandsifter	(36,443)
354.5 Retire old office building	(68,795)
371.3 Retire old Lift Station	(109,795)
380.4 Retire old Chlorine Contact Chamber	(832,470)
380.4 Retire old Generator	(128,257)
Total Pro Forma Adjustments to Accumulated Depreciation	\$ (1,084,599)
<b>Total Adjustments to Accumulated Depreciation</b>	<b>\$ (1,349,809)</b>

Exhibit 54

**ISSUE 6: What is the appropriate amount of CIAC to be included in rate base?**

**Position:** \*\*\$10,406,318\*\*

**Argument:** Witness Swain sponsored this amount in the MFRs, it was agreed to by the audit, no other testimony or evidence at hearing disputed this amount. Exhibit 2, Schedule A-2. Any attempt to impute CIAC for future connections is prohibited by Section 367.081(2)(a)1, Florida Statutes.

**ISSUE 7: What is the appropriate amount of accumulated amortization of CIAC to be included in rate base?**

**Position:** \*\*\$3,898,064\*\*

**Argument:** Witness Swain sponsored this amount in the MFRs, it was agreed to by the audit, no other testimony or evidence at hearing disputed this amount. Exhibit 2, Schedule A-2

**ISSUE 8: What are the used and useful percentages of the Utility's wastewater treatment plant and wastewater collection system?**

**Position:** \*\* The Wastewater Collection System is 100% Used and Useful; the Wastewater Treatment Plant is 71.5% Used and Useful.

**Argument:** Type 2 Stipulation was accepted by the Commissioners. Vol. 1 p. 15; Exhibit 107.

**ISSUE 9: What is the appropriate working capital allowance to be included in rate base?**

**Position:** \*\*2,269,090.\*\*

**Argument:** As testified by Witness Swain in the MFRs, the appropriate working capital is \$2,269,090. Witness Schultz believes the cash on hand is excessive believing the prior rate case amount of \$317,978 should be used. Witness Schultz bases this cash for operations solely on the prior rate case arguing that it was sufficient in the last rate case and is therefore sufficient in this rate case. However, Schultz argument fails on several different levels. *See* Transcript, Volume 4, p. 584.

First, the prior rate case accepted OPC's position that the cash requested in working capital was an anomaly, and was not needed for a major plant expansion, using instead the balance of cash in 2016. *See* Order No. PSC-16-0123-PAA-SU.

This assertion was in error, as has been testified by Johnson in this case, because the capital account was not utilized prior to the last rate case due to the plant expansion being delayed because of the permit appeal filed by Protect the Florida Keys and Key West, Inc. d/b/a Last Stand. *See* Transcript, Volume 6, pp. 898-899. Since the successful defense of this case, KWRU has spent over \$7 million dollars in the last several years on capital projects. *Id.* at pp. 895-896. Witness Swain specifically states that the month end snapshots of the bank accounts do not truly evidence the amount of working capital utilized on a monthly basis. Swain states that every month at least one million dollars (\$1,000,000.00) went in and out of KWRU's bank accounts for operations and capital projects. This significant cash flow necessitates cash on hand of \$911,826. *See* Transcript, Volume 5, p. 795, 799-802; Volume 6, p. 895-899.

In fact, during the test year, the Utility was unable to meet its financial obligations on two occasions during the months of July and August 2016. In July 2016, the Utility was unable to cover the costs of construction requiring a loan transfer in the amount of \$681,780 into its capital account. Additionally during the month of August 2016 the Utility had to rely on capital contributions in the amount of

\$530,000 to cover construction costs. The Utility relied on capital contributions and draws from long term debt to cover its normal operating costs and construction costs during the test year. *See* Transcript, Volume 5, p. 764; Volume 6, p. 895

Johnson states that after Hurricane Irma KWRU did not receive any payments for 2 months, a fact that Schultz was not aware of. Schultz' position as to the necessary cash on hand would have caused the utility to not pay its bills or employees' salaries as they came due and could have had a significant negative impact on operations. *See* Transcript, Volume 6, p. 898; Volume 4, p. 631

Schultz' also recommends an adjustment to working capital to decrease it by \$29,055 for the amortization of rate case expense. Omitted from Witness Schultz calculation is the Utility's adjustment on Schedule A-3 Page 2 of 2 Line 14 adjusting working capital for 6 months amortization in the amount of \$(53,853). As agreed, the 13-month average for deferred rate case expense as presented in witness Schultz testimony should only be adjusted for two months amortization, therefore working capital should be increased by \$24,798, as explained by witness Swain. *See* Transcript, Volume 5, p. 765.

2015 Deferred Rate Case Expense OPC Balance - 13-month Average \$408,946

2015 Deferred Rate Case Expense MFR Schedule A-18 - 13-month Average \$438,001

Schedule A-3 Page 2 of 2 Line 14 Working Capital Adjustment for Unamortized

rate case expense	<u>\$( 53,853)</u>
Deferred Rate Case Expense included in Working Capital	<u>\$384,148</u>
Working Capital Adjustment (additional)	<u>\$ 24,798</u>

Finally, Schultz argues that Working Capital should exclude the "FPSC Escrow Funds". However, as testified by Swain, funds in this account represented 43.94% of all utility revenues collected per Order No. PSC-16-0123-PAA-SU deposited into an interest bearing trust account as required. Based on final rates, the Utility was required to refund only 7.43% of revenues collected plus interest to ratepayers. The remaining amount of \$197,697 represents Utility revenues and should be included in working capital. Swain provided a table in her testimony evidence the 13 month average of cash appropriate to be included in working capital. Swain also indicated that the Company is willing to include the interest earned on that account in Utility revenues. Tellingly, Schultz admitted on cross-examination that he was not aware that none of these funds were refunded to the customers or that the funds were simply transferred to the operating account at the conclusion of the case. *See* Transcript, Volume 5, p. 765-766

**ISSUE 10: What is the appropriate rate base? (fall out)**

**Position:** \*\*7,274,266.\*\* (Increased by 101,079 accumulated depreciation from Issue 5)

**Argument:** The appropriate rate base is a fall out issue based on the other issues and is properly evidenced in Swain's rebuttal testimony schedule A-2.

Cost of Capital

**ISSUE 11: What is the appropriate capital structure?**

**Position:** \*\* Stipulated - the appropriate capital structure consists of 49.43 percent common equity and 50.57 percent long-term debt based on investor sources before reconciliation to rate base. Exhibit 107\*\*

**ISSUE 12: What is the appropriate return on equity?**

**Position:** \*\*Stipulated - 10.39%, based on the current leverage formula. Exhibit 107.\*\*

Cost of Capital and Capital Structure

**ISSUE 13: What is the appropriate cost of long-term debt?**

**Position:** \*\* 5.39%, based on the current prime rate \*\*

**Argument:** The promissory notes with BB&T, Notes 007 and 009, which were admitted into evidence as Exhibit 94, include interest at a rate of prime +.5%. As testified by Swain, prime +.5% is 5.25% currently, which when adding amortization of debt costs, totals 5.39% having increased by .5% after the filing of prefiled direct testimony. Schultz argues that this should not be updated after the direct testimony. He does not argue that it is incorrect, just that it cannot be updated after the initial MFRs. It is PSC policy to update cost throughout a rate case based on known and measurable information. This certainly meets this standard. See Transcript, Volume 5, p. 819-821.

**ISSUE 14: What is the appropriate weighted average cost of capital including the proper components, amounts, and cost rates associated with the capital structure?**

**Position:** \*\*7.70%\*\*

**Argument:** Based on Swain's testimony as to the current leverage formula and the current prime rate, the correct weighted cost of capital is 7.70%. *See* Transcript, Volume 5, pp. 792-793.

**ISSUE 15: What are the appropriate billing determinants (factored ERCs and gallons) to use to establish test year revenues?**

**Position:** \*\* Residential

Bills	17,475
Gallons	65,498
<u>General Service</u>	
Bills	1,981
Gallons	106,976
<u>Harbor Shores</u>	
Bills	12
Gallons	2,436
<u>Private Lift Stations</u>	
Bills	2,269
Gallons	42,269
<u>Reuse Service</u>	
Bills	16
Gallons	27,074**

**Argument:** Swain appropriately identifies the correct bills and gallons based on the known and measurable bills and gallons during the test year. OPC agrees with this statement in the Prehearing Order, Order No. PSC-2018-0242-PHO-SU.

County argued that this should be increased based on certain potential developments which would increase the bills and gallons that may possibly arise during the time the new rates are in effect. The County's objective was to grossly overstate new bills and gallons, which projections have no basis in fact or reality.

The County's argument was shown to be wholly incorrect as to an increase in bills. As was testified by both Kevin Wilson and Johnson, there would be no new water meters added during the test year for Sunset Marina (2" and 8" turbo already in existence during test year), Oceanside (3" existed), Stock Island Marina Village (3" meter existence), Gerald Adams (no new meter being added for school), Bernstein Park (meters already exist and one meter claimed to be utilized is in fact an irrigation meter), FKSPCA (new facility has new meter but old facility required to demolished). *See* Transcript, Volume 3, p. 492; Volume 2, p. 303-304. Witness

Small admitted he just took the data from Kevin Wilson's spreadsheet of projected flows and calculated additional meters as if meters did not exist. Small never confirmed whether the meters actually existed, which they do. *See* Transcript, Volume 4, pp. 539-540.

As to flows, Kevin Wilson admits and his spreadsheet clearly identifies that the flows are "Projected Flows". Projections are not known and measurable and are inappropriate for consideration in a historical test year with pro forma adjustments that are based on "known and measurable" information. *See* Transcript, Volume 3, pp. 500, 512; Volume 5, p. 797. To be appropriate pro forma adjustments to a historical test year, the adjustments must be known and measurable. The County witness' testimony does not meet that standard as Witness Wilson projections are not based on fact but his personal estimations.

In fact, not only are these flows projected, they apparently change right up to trial as the County had revised Wilson's schedules just before trial eliminating certain flows (Gerald Adams), adding different accounts and meters that already exist (Stock Island Marina Village), revising data for accounts (Oceanside and FKCC). The County is so unsure of the numbers they were adjusting the numbers at trial. When Wilson was asked whether he knows if Sunset Marina would be rentals or sales, he did not know. Even if a project goes on-line in June, rentals or sales takes time to accomplish, these units will not be immediately leased or sold. *See* Transcript, Volume 3, p. 491. Apparently Witness Wilson, without knowledge of whether all the units are leased or sold, was able to project that every unit would be occupied immediately upon completion and be utilizing maximum flows.

As to Oceanside and Stock Island Marina Village, Wilson admits these hotels were utilized for permanent residency after Hurricane Irma which certainly doesn't represent actual hotel use. Moreover, he utilizes tourist season gallonage to create a year round average, both which would grossly overstate flows and would also overstate revenues. *See* Transcript, Volume 3, pp. 498-502.

As Johnson explains, 10d-6 or Chapter 64E-6.013 is an estimate of maximum flows, not average daily flows. To project new average daily flows utilizing maximum flows would grossly overstate gallonage.

The County presented the testimony of Terry Deason who pontificated about how the matching theory<sup>3</sup> should apply to a wastewater rate case based upon a historical test year with pro forma adjustments. He admitted that in the last ten years he had participated in only two water or wastewater rate cases. Deason – Vol. 3, pp. 412-413. In fact, in the one case where he was a consultant to a water utility he did not espouse the matching theory because the pro forma plant was not designed to serve

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<sup>3</sup> Mr. Deason articulated this as the "matching principle", however a "principle" is a "fundamental truth or doctrine" Black's Law Dictionary, and as discussed above, this "principle" has never been accepted by this Commission in this situation, and thus is nothing more than Mr. Deason's theory.

new customers. Deason – Vol. 3, pp. 413-414. No party has argued the pro forma projects are for new customers in this case.

Interestingly, Mr. Deason was testifying theoretically and not with regard to the facts of this specific case. Deason – Vol. 3, pp. 418, 429-430. Therein lies the fallacy of Mr. Deason’s argument. In preparing his testimony, other than the last KWRU rate case in which he testified, he had not reviewed a single Commission decision that utilized a historic test year with pro forma projections. Deason – Vol. 3, p. 427. He did not even review the recent UIF rate case which was based upon a historic test year with significant pro forma adjustments even though his son was a witness for the utility in that case. Deason – Vol. 3, pp. 427-428. How can a purported expert on ratemaking make an opinion on Commission ratemaking policies when he has not reviewed the Commission’s recent decisions in similar circumstances?

“Q. All right. It is – it’s true, is it not, that you have not reviewed recent Commission Orders where there have been historic test years with pro forma adjustments, correct?

A. I’ve not looked at any ...

Commissioner Polmann. Sir that was a yes-or-no question.

The Witness. Yeah, No, I have not.”

(Vol. 3, p. 437)

This is made abundantly clear from Mr. Deason’s confusion with this Commission’s standard of allowing pro forma adjustments only when they are known and measurable, instead of projections as he suggested. Deason – Vol. 3, pp. 422-423. Further how can a purported expert testify that post-test year CIAC should be imputed despite a clear statutory prohibition against such imputation? Deason – Vol. 3, pp 430-431.



**ISSUE 16:** What are the appropriate test year revenues?

**Position:** \*\*\$2,332,526\*\*

**Argument:** Audit Finding 3, contains adjustments to revenues, totaling \$20,789. As Witness Swain explains, \$9,982 of that amount are revenues from prior to the test year, which Witness Glover admitted in cross examination should be excluded. Although Witness Glover did not agree that the remainder of the finding was due to the exclusion of billing adjustments, Witness Swain contends that it does, and the adjustment should not be made. The is the appropriate test year revenues fully excluding the adjustment in Audit Finding 3. OPC adjusted this number based on Audit Finding 3.

However, Monroe County attempts to increase the test year revenues to \$2,502,000 based on purported projected increases in bills and gallonage. As the projections should be rejected, as discussed in Issue 15, the County's test year revenue adjustment should be rejected. The County is attempting to increase test year revenues based on projected revenues that it believes (but will not) occur after the test year. This argument is wholly without basis.

When County Witness Wilson was asked if he was involved in the creation of the test year revenue position by Monroe County, he stated "No". *See* Transcript, Volume 3, p. 488. Witness Small admits that the future flows did not occur during the test year. *See* Volume 3, p. 536. Witness Small admits that he was not involved in the County's projection of bills and gallonage after the test year, but simply calculated the revenues that would be generated if those projections were included. *Id.* Small's revenues that it provides will be generated are also based upon the base facility charge and meter charges that are proposed by KWRU, which is not the test year, and would grossly overstate revenues based on the rates in effect during the test year, i.e. in the test year the BFC is \$31.66 and per 1,000 gallon charge is \$5.25, but Small's utilizes \$50.74 for the BFC and \$8.41 for the per 1,000 gallon charge, which is not the test year to derive his additional revenue, which is not the test year BFC and per 1,000 gallon charge.

What the County attempts to argue to raise test year revenues based on flows that did not occur during the test year utilizing rates that were not in existence during the test year. Both of which are incorrect, as the base facility charges and flows did not occur during the test year, and projections are not only incorrect but false. Then to exacerbate the County's error, it takes its incorrect false base facility charges and flows and attempts to lower the final rates, compounding the error.

**ISSUE 17:** What adjustments, if any, should be made to account for the audit findings related to net operating income?

**Position:** \*\*None.\*\*

**Argument:** As provided in Swain's testimony, no adjustments are necessary based on audit finding being removed by witness Glover. *See* Transcript, Volume 5, pp. 761-763.

**ISSUE 18: What is the appropriate amount of salaries and wage expense?**

**Position:** \*\*\$981,985.\*\*

**Argument:** The appropriate amount of salaries is based on full employment of the Utility with 14 employees consisting of two officers and 12 staff. As testified by Johnson, it was fully staffed prior to Hurricane Irma, and has been fully staffed for most of 2018 after losing 3 employees due to Hurricane Irma. *See* Transcript, Volume 2, p.189. In KWRU's prior rate case, it requested four additional staff positions for operating at Advanced Wastewater Treatment (AWT) standards and operating the third treatment train. In Order No. PSC-16-0123-PAA-SU, KWRU was approved for these four additional staff positions, raising its staffing from 9.5 positions to 13.5 positions, including officers. However, an error occurred in that that the cost of the four employees was added to the test year salaries and wages, which included vacancies during the test year and not full staffing, causing the Utility to not recover the full cost of its salaries wages.

As testified by Johnson, KWRU is requesting 14 total employees<sup>4</sup> as this is needed to properly operate the plant, complete small capital improvements in house. *See* Transcript, Volume 2, pp. 151-152, 159-160.

Further, Johnson testified that the salaries and wages should be updated to show current conditions. Additionally, known salary increases anticipated within a short period of time should be included. The Utility has made an adjustment to salaries and wages consistent with current staffing levels and known anticipated raised and made the appropriate adjustment to corresponding payroll related costs, such as pension and benefits, payroll taxes and workman's compensation. *See* Transcript, Volume 6, pp. 905-906. Johnson also testified that fourteen employees are on staff and the Utility anticipates higher retention and better market competitiveness due to its traditional pension plan. *Id.* at 904.

Schultz argues that the test year is the appropriate level of salaries and wages. Schultz admits he has never operated a utility, does not hold a wastewater operator's license, is not an engineer, and did not know how many people are required for staffing a KWRU's wastewater system under its operating permit. *See* Transcript, Volume 4, pp. 551, 636 Schultz testifies that he reflected a level of overtime and a level of vacancies. However, Schultz testimony utilized data prior to when the third treatment plant went on-line which results in a cost which reflects

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<sup>4</sup> one part time employee retired and a full time employee has not been hired, raising the staffing from 13.5 to 14  
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a period prior to the third treatment plant being on-line which necessitated two additional employees. In his testimony at the final hearing Schultz agrees that there are currently 12 full time staff members and two officers. Based on the foregoing, the salaries and wages requested by KWRU is correct. *See* Transcript, Volume 4, pp. 640-642.

**ISSUE 19: What is the appropriate amount of employee pensions & benefits expense?**

**Position:** \*\*\$236,540.\*\*

**Argument:** The fundamental disagreement between the parties is the allowance of the profit sharing plan KWRU has implemented. It provides a fall out issue for pensions and benefits, which is based on the total salaries and wages. Based on KWRU's argument above and including the profit sharing plan, the appropriate amount of employee pensions and benefits expense is \$236,540.

Schultz argues the profit sharing plan is a "gold plated pension plan" which is simply not the case. Schultz admits he never reviewed pension plans of rate payers or other utilities. Schultz does not provide any support for his position except his own opinion and 40 years of testifying. *See* Transcript, Volume 4, pp. 570-572. Just because you testify in rate proceedings does not give you the ability to opine on anything and everything and have credibility.

The profit sharing plan provides 5% of salaries towards a retirement plan which begins to vest after 2 years and does not fully vest until 6 years. KWRU has identified that a significant issue of retention of employees is competition with other utility providers and employees leaving after being trained. Johnson specifically identified at the final hearing the pension plans of FCAA and Keys Energy far exceed the cost of KWRU's plan. Johnson identified at least four people that in part left because KWRU did not offer retirement benefits that competed with KWRU's direct competitors for employees, FCAA, Keys Energy and the City of Key West. *See* Transcript, Volume 2, p. 153-154, 160, 179, 184-185, 208-210 Contrary to Schultz contention that the profit sharing plan exceeds any retirement benefits of its ratepayers, Johnson identified its competition and that their plans exceed KWRU's profit sharing plan. *Id.* at p. 184-185. Johnson explained that retention is crucial to operate the plant as training is a significant cost. *Id.* at pp. 152-154. Johnson further explains that the plan has already been well received and that employment levels have been consistent since implementation at fully staffed. *Id.* at p. 274. The plan incentives employees to stay for at least six years, which is a significant advantage to operations because the company can expend funds to train employees without the concern of the employees vacating for other utilities.

OPC and County insinuate that because the plan is terminable, KWRU may at the conclusion of the case terminate the plan to obtain additional profits. This insinuation at trial is insulting and there is no evidence produced at trial of this contention. In fact, Johnson repeatedly stated that he does not believe you can do this and that KWRU has made a promise and agreement with its employees to fund this plan. *See* Transcript, Volume 2, pp. 210-211. Swain testified that her firm has also turned to a profit sharing plan to attract employees and that she is the company administrator for her plan and that you cannot simply terminate a plan, but it requires IRS approval and would provide significant penalties. *See* Transcript, Volume 5, pp. 774, 796, 814-815, 843. As Johnson stated, terminating the plan would not build trust with KWRU's employees. *See* Transcript, Volume 2, pp. 210-211.

County and OPC apparently desire to eliminate the plan to build such distrust between KWRU and its employees which may cause additional turnover jeopardizing operations.

The undisputed evidence shows that this profit sharing plan is currently in place, and the Utility has no plan to terminate the plan. *See* Testimony of Chris Johnson, Transcript, Volume 7, p. 1052. Schultz testimony has no factual basis, whereas Chris Johnson can identify specific tangible reasons for implementing the plan, which evidences a clear reasonable and prudent action by KWRU.

**ISSUE 20: What is the appropriate amount of sludge hauling, chemicals, and purchased power expenses?**

**Position:** \*\* The appropriate amount of sludge hauling expense is \$164,848; the appropriate amount of Chemicals is \$231,742; the appropriate amount of purchased power is \$240,106.\*\*

**Argument:** OPC Witness Woodcock agreed with the costs of sludge hauling calculated by Witness Castle and chemical and electrical cost analysis performed by Johnson. *See* Transcript, Volume 3, pp. 332-333, 339, 360-362. This issue should have been stipulated except the only issue brought forth by OPC and County is that Johnson updated the cost of electric based on Keys Energy's increase in electric rates effective June 1, 2018, (Exhibit 150), after Johnson's direct testimony was filed. Schultz argues this should not be updated because it occurred after the original MFRs, but does not contest that the increase occurred.

**ISSUE 21: What is the appropriate amount of materials and supplies expense?**

**Position:** \*\*\$42,751.\*\*

**Argument:** The appropriate amount of materials and supplies is the test year as adjusted in Swain's updated corrected MFR Schedule B-2. Witness Swain explained that the original MFRs required correction as certain general ledger accounts should have been classified as "Contractual Services Other", rather than Materials and Supplies, moving \$43,290 out of materials and supplies and into contractual services other. *See* Transcript, Volume 5, pp. 780-781.

Further, the price of both labor and materials generally has increased since 2014, and low margin bids are difficult to come by as a result of the glut of contractor work created by Hurricane Irma. *See* Transcript, Volume 6, p.888. Materials in the Florida Keys are significantly higher in general due to high cost of living, lack of skilled workers, and the need to ship items approximately 150 miles down a single road. *Id.* at p. 900. Additionally while OPC witness Schultz claims that the Utility has not adequately supported the increase in materials and supplies, he fails to understand how a fully staffed utility can take on additional labor. For example, with regard to the plant rehabilitation project, the Utility plans to use in house labor to perform and supervise a substantial portion of the work required to take down the treatment plants prior to Evoqua commencing the rehabilitation work. This is specialized work that requires a knowledge of wastewater treatment and specialized safety training and equipment to work in confined spaces. If fully staffed, the Utility can do this kind of project work, but adequate materials and supplies are necessary to complete the work. The Utility will have a significant increase in materials and supplies with a fully staffed maintenance group and this should be beneficial to the operational efficiency of the Utility and it should also help reduce the number of projects that require outside subcontractors, at a cost savings to the Utility. *See* Transcript, Volume 6, at pp. 906-907, 934-936.

**ISSUE 22: What is the appropriate amount of contractual services – engineering expense?**

**Position:** \*\* \$16,000 \*\*

**Argument:** The test year engineering expense provided on MFR Schedule B-6 is \$20,765. Johnson identifies that this was higher due to the cost of the permit renewal. The cost of the permit renewal was \$ 11,167.50. (Exhibit 132). Johnson appropriately adjusts this expense down and estimates the engineering cost to be \$16,000. (Exhibit 132). Schultz attempts to utilize a five year average to determine engineering expense. This is inappropriate as this is a historic test year with proforma adjustments. A five year average does not reflect the test year or the known and measurable cost of engineering at the time rates will be in effect, but rather reflects the past. In this case, the past reflects a time period prior to having a third treatment plant and prior to operating at AWT. *See* Testimony of Deborah Swain, Transcript Volume 5, p. 781-782. If Mr. Woodcock’s recommendation to remove \$7,205.75 in engineering costs from the WWTP rehabilitation project as addressed in Issue 2 is accepted by the Commission, then this expense must be increased by \$7,205.75.

**ISSUE 23: What is the appropriate amount of rental of equipment expense?**

**Position:** \*\*\$1,479.\*\*

**Argument:** Schultz testifies that no equipment rental expense should be included because the rental of a crane truck will not be needed once it is purchased. Johnson testifies that although the crane truck may eliminate some rental expense, there will be other specialized equipment needed periodically and the appropriate amount of rental expense is the test year as adjusted in Swain’s updated selected MFR Schedule B-2. *See* Transcript, Volume 2, p. 148; *see also* Testimony of D. Swain, Transcript Volume 5, pp. 766, 783 and Testimony of Shultz, Transcript Volume pp. 617-618.

**ISSUE 24: What is the appropriate amount of insurance – worker’s comp expense?**

**Position:** \*\*34,607.\*\*

**Argument:** This is a fall out calculation based on full employment at 14 employees. The only disagreement to KWRU's expense was OPC. Witness Schultz indicated that the includable amount is it should be only that included in the test year which

was based on test year salaries and wages. Therefore, the amount that should be increased at a rate of 4.4% of allowed proforma salaries and wages. *See* Transcript, Volume 4 pp. 616-617; *see also* Testimony of D. Swain, Transcript Volume 5, p 782; Swain Exhibit 54 Schedule B-3.

**ISSUE 25: What is the appropriate amount of bad debt expense?**

**Position:** \*\*\$2,443.\*\*

**Argument:** Johnson testified that this expense occurred due to an employee not paying back amounts loaned to the employee as a moving expense. Johnson explains that KWRU did not seek to recover the loan in court as the cost would exceed any recovery and the chances of recovery are low because the former employee likely is insolvent. *See* Transcript, Volume 6, pp. 903, 955-958. OPC appears to contend that a debt collector should be utilized under some arrangement where it accepts a portion of the debt as payment. No witness testified to this type of arrangement existing and it appears to solely be a suggestion of OPC's counsel. Moreover, Witness Swain explains it is fairly common for utilities to record non-payment by customers as bad debt expense and to write off the expense as not collectible, rather than turn it over to a debt collector. *See* Transcript, Volume 5, pp. 775-776, 815-817.

**ISSUE 26: What is the appropriate amount to be recovered by the Utility for storm restoration expenses due to Hurricane Irma, and over what period should such expenses be recovered?**

**Position:** \*\*\$273,178, to be recovered over four years.\*\*

**Argument:** Johnson provided support in his direct testimony that the total cost of Hurricane Expense was \$216,072, primarily consisting of overtime, generator rentals, office rental and other miscellaneous expenses. *See* Exhibit 22. Witness Shultz and Witness Swain both testified that the allowed amount should be reduced by duplicate costs and any insurance payments. This results in a reduction of \$4,764 (duplicate invoices) and \$19,393 (insurance). However, additional costs were incurred for the rental of a generator due to the ongoing need. Johnson provided support for updated costs in his rebuttal including an additional five months of generator rentals for the main generator and the tow behind generator. Johnson explains in his rebuttal that these updated costs are based on the known installation dates of the generator and delivery of the tow behind generator. Johnson provides known and measurable data as to the delivery date of the tow behind generator and installation of the main generator. *See* Transcript, Volume 6, pp. 893-894, 906.

With all the adjustments, the correct amount is \$273,178, an increase of \$57,095. (Exhibit 54).

In its surrebuttal, neither Schultz or Woodcock take issue with the cost, but rather Schultz claims he could not figure out the calculation. When Schultz was asked to review Johnson's direct testimony and calculate the additional cost based on the per month rental charges, Schultz states he has no reason to disagree with the costs or the calculations. *See* Transcript, Volume 8, pp. 1090-1091. Witness Schultz's claims to not have had time to review but admits he reviewed the rebuttal testimony upon it being filed on April 10<sup>th</sup>. Apparently, OPC and County's sole issue is that they could not take the approximate 10 minutes it took on the stand to have OPC's witness review Johnson's rebuttal to obtain the total amount of months for the rentals and then turn to his direct testimony and obtain the per month rental charge and multiply the total months by the rental charge. It simply does not hold water that there was not time to confirm the calculations performed by Johnson for total rental costs. *See* Transcript, Volume 8, pp. 1113, 1119-1120.

Witness Shultz testifies that the expense should be amortized over five years, not four. However, the amortization period selected was not because it is a non-recurring expense as claimed by Shultz, but because that is the expected frequency of similar occurrences. *See* Transcript, Volume 4, pp. 606-610; *see also* Testimony of D. Swain, Transcript Volume 5, pp. 776-777. The hurricane expense should be amortized over four years consistent with this Commission's decision on Order No. PSC-06-170A-PAA-WS. Such amortization was based upon a rate case cycle of 4 years (see Section 367.081(8), Florida Statutes), and it is reasonable to conclude that KWRU will file another rate case within that next four year cycle. In that case, the PSC expressly stated that this and shorter periods have been utilized in electric utility cases. *Id.*

**ISSUE 27: What is the appropriate amount of miscellaneous expense?**

**Position:** \*\*\$228,049.\*\*

**Argument:** The appropriate amount for miscellaneous expense is the sum of the test year amount plus adjustments. No testimony was presented to dispute KWRU's amount for test year, nor adjustments for the deferral of Last Stand, the correction from rate base, nor the POTs line for the alarm system. the only amounts disputed is the hurricane expense from Issue 26, and the fiber for the telephone system, addressed in Issue 28. This will be a fall out from those issues.

(From B-3, B-6, Exhibit 54)

Per books (B-6)

\$46,617



Adjustments (B-3)		
Defer Last Stand	99,395	
Reclass from rate base	405	
Fiber for telephone system	12,380	
POTS line for alarms system*	960	
Amortize hurricane expense	<u>68,292</u>	
Adjusted miscellaneous expense	\$228,049	*+960

{\*\$960 needs to be added to total shown.(it wasn't included in the DDS-2 total although it was listed)}

**ISSUE 28: What are the appropriate amounts of the Utility’s pro forma expenses?**

**Position:** \*\* Operating and Maintenance: \$847,534; Depreciation Expense: \$173,636; Taxes other than Income Tax: \$135,954.\*\*

**Argument:** KWRU adopts and restates its arguments for Operating and Maintenance contained within Issues 18 – 27.

Additionally, as to the cost of the fiber optic internet phone service, KWRU has identified that Comcast is not reliable and failed after Hurricane Irma and continues to fail. KWRU has provided evidence from its IT consultant that no phone and internet provider is reliable in the Florida Keys. See Testimony of Chris Johnson, Volume 2, pp. 142-143, 147; Volume 6, pp. 901-902, 922-924. In order to properly operate its SCADA system, KWRU has identified it must have redundancy of its internet system. See Transcript, Volume 2, pp. 148, 160. SCADA reduces its employment costs more than half as it reduces staffing from 16 hours per day, seven days per week, to 8 hours per day, 5 days per week with a weekend visit each weekend day. The cost of the redundancy is minimal and ensures proper operations. *Id.* at pp. 305-306. All KWRU systems have redundancy, and SCADA should be no different. The evidence clearly provides that the cost is minimal compared to the staffing if SCADA cannot be utilized and therefore the cost should be deemed reasonable and prudent.

Depreciation Expense

(1) Proforma Plant: Any adjustments for proforma plant will require a fall out calculation of depreciation expense.

(2) Annualization of test year plant additions: Witness Shultz testifies that certain corrections to depreciation expense in the MFRs must be made to the annualization adjustment to reflect reclassifications made in the MFRs. Swain testifies that corrections are appropriate and provided the explanation and calculations. These additional corrections total a reduction to depreciation expense of \$12,247. These adjustments were not included in Exhibit 54. See Testimony of D.Swain, Transcript Volume 5, pp. 768-770.

<u>Depreciation Expense</u>	
3	4

354.4 Structures & Improvements	(31,868)	(58,996)
360.2 Collection Sewer Force	(640)	
364.2 Flow Measuring Devices	(3,933)	15,730
371.3 Pumping Equipment	(284)	
375.6 Reuse Trans/Dist	(393)	
380.4 Treatment & Disposal Equipment	(22,405)	88,396
381.4 Plant Sewers	(715)	2,860
390.7 Office Furniture	<u>1</u>	
	<u>(60,237)</u>	<u>47,990</u>

(3) Retirements: Witness Schultz testifies that depreciation expense should be reduced by \$56,652 for retirement of the chlorine contact chamber, the lift station and the generator. *See* Transcript, Volume 4, pp. 594-596. However, Witness Swain testifies that it is not appropriate to adjust depreciation expense for the lift station and the chlorine contact chambers because they are fully depreciated, and no longer being depreciated on the company's books. *See* Transcript, Volume 5, pp. 770-771.

Taxes other than Income Tax is a fall out issues based on the determination of the appropriate plant and revenues.

**ISSUE 29: What is the appropriate amount of rate case expense, and over what period should such expense be recovered?**

**Position:** \*\*\$443,855, amortized over four years.\*\*

**Argument:** KWRU and its consultants and attorneys have had to respond to over 500 interrogatories, including subparts, over 200 requests for production, attend depositions, file appropriate prehearing motions, which were granted, defend prehearing motions which were denied, and prepare and present this case. KWRU's legal counsel allocated every part of the process to one attorney or another, typically utilizing an associate attorney for discovery at a rate far less than the rates of Mr. Friedman or Mr. Smith. The time and costs are well documented, and even though Mr. Smith and Mr. Friedman are with different law firms, there is no evidence of overlap in Mr. Friedman or Mr. Smith's work any different from multiple attorneys representing other parties.. It should be noted that Staff had two attorneys working on this case, the County had three attorneys working on this case, and Staff had two attorneys working on this case. The appropriate rate case expense is \$443,885. Exhibit 91. Pursuant to Section 367.081(8), Florida Statutes, rate case expense is recoverable over four years unless a longer period can be justified. There is no evidence as to any longer amortization period and the four year default period is applicable.

**ISSUE 30: What, if any, further adjustments should be made to the Utility's O&M expense?**

**Position:** \*\*None.\*\*

**Argument:** KWRU adopts and restates its arguments for Operating and Maintenance contained within Issues 18 – 28.

**ISSUE 31: What is the appropriate amount of O&M expense? (fall out)**

**Position:** \*\*\$2,567,866.\*\*

**ISSUE 32: What is the appropriate amount of depreciation expense?**

**Position:** \*\*\$317,795.\*\*

**Argument:** This is a fall out calculation based on the plant in service and depreciation utilized in calculating rate base. (See issue 28)

**ISSUE 33: What is the appropriate amount of Taxes Other Than Income?**

**Position:** \*\* This is a fallout calculation, and the appropriate amount is \$311,467.\*\*

Revenue Requirement

**ISSUE 34: What is the appropriate revenue requirement?**

**Position:** \*\*\$3,682,216.\*\*

**Argument:** The actual appropriate revenues should be \$3,761,710, however, because the MFRs filed with Swain’s direct testimony provided a general revenue requirement of \$3,682,216, KWRU agrees its revenue requirement is limited to \$3,682,216 even though based on the historic test year and known and measurable pro forma adjustments the revenue requirement should be \$3,761,710. If adjustments are made to operations and maintenance or rate base which reduce the revenue requirement the appropriate adjustments would be to \$3,761,710, and the adjustments would not decrease the revenue requirements below \$3,682,216. *See* Transcript, Volume 1, pp. 56-57, 83-84, 88-89, 99; Volume 5, pp. 826-828.

Rate Structure and Rates

**ISSUE 35: What are the appropriate adjustments, if any, to test year billing determinants for setting final rates and charges?**

**Position:** \*\* No further adjustments to the billing determinants shown in KWRU Position to Issue 15.\*\*

**Argument:** KWRU adopts and restates its argument in Issue 15

**ISSUE 36: What are the appropriate rate structure and rates for wastewater service?**

**Position:** \*\*The appropriate rate structure and rates are as filed in the MFRs, as follows:

Line No	(1) Class/Meter Size	(2) Rates Effective 7/2016	(3) Rates Effective 4/2017	(4) Final Rates
1	<b><u>Residential Service</u></b>			
2				
3	BCF All Meter Sizes	\$31.66	\$31.86	\$50.74
4	Gallorage Charge per 1,000 gallons (10,000			
5	gallon cap)	\$5.25	\$5.28	\$8.41
6				
7	<b><u>General Service</u></b>			
8	5/8" x 3/4 "	\$31.66	\$31.86	\$50.74
9	1"	\$79.15	\$79.65	\$126.84
10	1.5"	\$158.30	\$159.30	\$253.69

11	2"	\$253.28	\$254.88	\$405.90
12	3"	\$506.56	\$509.76	\$811.79
13	4"	\$791.50	\$796.50	\$1,268.43
14	6"	\$1,583.00	\$1,593.00	\$2,536.85
15	8"	\$2,532.80	\$2,548.80	\$4,058.96
16	8" Turbo	\$2,849.40	\$2,867.40	\$4,566.33
17				
18	Gallorage Charge per 1,000 gallons	\$6.30	\$6.33	\$10.08
19				
20	<b>Harbor Shores</b>			
21	Base Facility Charge		\$2,198.34	\$3,500.86
22				
23	Gallorage Charge per 1,000 gallons			
24	690,000 gallon cap		\$5.28	\$8.41
25				
26	<b>Private Lift Station Owners</b>			
27	5/8" x 3/4 "	\$25.33	\$25.49	\$40.59
28	1"	\$63.32	\$63.72	\$101.47
29	1.5"	\$126.64	\$127.44	\$202.95
30	2"	\$202.62	\$203.90	\$324.71
31	3"	\$405.25	\$407.81	\$649.44
32	4"	\$633.20	\$637.20	\$1,014.74
33	6"	\$1,266.40	\$1,274.40	\$2,029.48
34	8"	\$2,026.24	\$2,039.04	\$3,247.17
35				
36	Gallorage Charge per 1,000 gallons	\$6.30	\$6.33	\$10.08
37				
38	<b>Reuse Service</b>			
39	Gallorage Charge per 1,000 gallons	\$0.93	\$1.34	\$2.13

## Exhibit 2

Other Issues

**ISSUE 37: What is the appropriate rate for KWRU’s reuse service?**

**Position:** \*\* The reuse service, as well as the residential and general service base rate and gallonage rates, are all increased on a percentage basis based on the increase in the general revenue requirement determined by the Public Service Commission. The current fallout calculation is \$2.18 per 1,000 gallons.\*\*

**Argument:** KWRU has calculated the reuse charged based on the percentage increase in the appropriate general revenue requirement. Exhibit 54 and 87. County contends that it should be a number higher than this and points to FKAA charges for reuse. There is no evidence that FKAA’s reuse charge is appropriate or results in additional use of reuse. KWRU provided the list of all companies that have reuse in Monroe County, and to its knowledge there is no evidence of any reuse sold by any other utility. Exhibit 87.

As provided in 2016 WL 2961706 (Fla.Dept.Env.Prot.), KWRU’s primary disposal of effluent is via reuse and it is an important aspect in insuring that significant quantities of effluent are not disposed into injection wells, the subject of a very lengthy and expensive of appeal. Ultimately, any increase in reuse may result in less reuse being utilized by customers, which may result in reuse failing to be KWRU’s primary source of disposal and the potential requirement of a deep well which may cost millions of dollars to ratepayers.

**ISSUE 38: What are the appropriate miscellaneous service charges?**

**Position:** \*\* KWRU contends this matter is not at issue as no one contested Swain’s MFRs on this issue. Notwithstanding the foregoing, the appropriate miscellaneous service charges are based on a cost of living increase pursuant to the Public Service Commission Price Index (Exhibit 118) since the last rate case (2015 - 1.57%, 2016 - 1.29%, 2017 - 1.51%), and are as follows:

	<u>Bus. Hrs.</u>	<u>After Hrs.</u>
Initial Connection Fee	\$ 62.14	\$ 68.72
Normal Reconnection Fee	\$ 68.72	\$ 79.47
Violation Reconnection Fee	Actual Cost	Actual Cost

Premises Visit Fee (in lieu of disconnection) \$ 47.73 \$ 54.31

Bad Check Charge Pursuant to 68.065 (2), Florida Statutes  
\*\*

**Argument:** Witness Swain provided the rates as they were approved in the prior rate case, PSC Commission Order No. PSC-16-0123-PAA-SU, with adjustments based on the PSC price index (Exhibit 118) for the subsequent years. No testimony was proffered contesting this methodology. *See* Transcript, Volume 2, pps 121-122; Exhibit 113.

**ISSUE 39: What is the appropriate late payment charge?**

**Position:** \*\* KWRU contends this matter is not at issue as no one contested Swain's MFRs on this issue. Notwithstanding the foregoing, the appropriate late payment charge is based on a cost of living increase pursuant to the Public Service Commission Price Index since the last rate case (2015 - 1.57%, 2016 - 1.29%, 2017 - 1.51%), \$7.47.\*\*

**Argument:** Witness Swain provided the rates as they were approved in the prior rate case, PSC Commission Order No. PSC-16-0123-PAA-SU, with adjustments based on the PSC price index. (Exhibit 118). No testimony was proffered contesting this methodology. *See* Transcript, Volume 2, p. 121; Exhibit 112.

**ISSUE 40: What is the appropriate Lift Station Cleaning charge?**

**Position:** \*\* As no testimony has been proffered with regard to the appropriate lift station cleaning charge, KWRU contends this matter is not at issue. Notwithstanding the foregoing, the appropriate charge is based on a cost of living increase pursuant to the Public Service Commission Price Index since the last rate case (2015 - 1.57%, 2016 - 1.29%, 2017 - 1.51%), for an appropriate charge of \$1,526.82.\*\*

**Argument:** Witness Swain provided the rates as they were approved in the prior rate case, PSC Commission Order No. PSC-16-0123-PAA-SU, with adjustments based on the PSC price index. (Exhibit 118). No testimony was proffered contesting this methodology.

**ISSUE 41: What are the appropriate initial customer deposits?**

**Position:** \*\* Two times the average customer bill based upon the final rate determination.\*\*

**Argument:** KWRU's initial customer deposits have been previously set by PSC Commission Order No. PSC-16-0123-PAA-SU consistent with Commission policy at two times the average customer bill based upon the final rate determination. No testimony was offered justifying any revision to this long-standing policy.

**ISSUE 42: What are the appropriate Allowance for Funds Prudently Invested (AFPI) charges?**

**Position:** \*\*This is a fall-out calculation based on the NUU adjustment, which is stipulated. The amount will change based on pro forma in the affected accounts.\*\*

**Argument:** All parties identify the appropriate Allowance for Funds Prudently Invested is provided in schedule E-10 in Exhibit 2,, which is based on KWRU's inclusion of all pro forma projects.

**ISSUE 43: What is the appropriate amount by which rates should be reduced to reflect the removal of the amortized rate case expense?**

**Position:** \*\*This is a fall-out calculation based on the allowed rate case expense amount. Rates should be reduced pursuant to Commission Rule 25-30.4705, F.A.C.\*\*

**Argument:**

**ISSUE 44: In determining whether any portion of the interim wastewater revenue increase granted should be refunded, how should the refund be calculated, and what is the amount of the refund, if any?**

**Position:** \*\*There should be no refund as KWRU's final rates evidenced by any and all testimony far exceed the interim rates.\*\*

**Argument:** All parties positions evidence an increase in rates over the interim rates, therefore, no refund should be required as KWRU's final rates far exceed the interim rates.



**ISSUE 45: Should the Utility maintain an asset management and preventive maintenance plan? If so, what action, if any, should be taken?**

**Position:** \*\*Yes, predicated upon full employment (14 employees).\*\*

**Argument:** OPC witness Woodcock testified that KWRU was attempting to provide preventive maintenance in the short term. Woodcock – Vol. 3, pp. 355-356. Mr. Johnson acknowledged that maintenance could be taken more proactively and with a full operating staff as requested in this proceeding (see Issue 18) that can be accomplished which will increase efficiency and extend the life of assets. Johnson - Vol. 6, pp. 894-895. There is no one size fits all when it comes to asset management plans. Woodcock – Vol. 3, pp. 368-370. Mr. Woodcock testified that although an asset management plan may not require additional employees, it certainly requires a sufficient number of operating personnel. Woodcock – Vol. 3, p. 371.

**ISSUE 46: Should the Utility be required to notify, within 90 days of an effective order finalizing this docket, that it has adjusted its books for all the applicable National Association of Regulatory Utility Commissioners (NARUC) Uniform System of Accounts (USOA) associated with the Commission-approved adjustments?**

**Position:** \*\*Yes.\*\*

**Argument:**

**ISSUE 47: Should this docket be closed?**

**Position:** \*\*Yes.\*\*

**Argument:**

Respectfully submitted this 6th day of June, 2018,  
by:

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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

E-Mail to the following parties this 6th day of June, 2018:

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