

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into the billing practices of
K W Resort Utilities Corp. in Monroe County.

DOCKET NO. 20170086-SU
ORDER NO. PSC-2018-0444-PAA-SU
ISSUED: August 31, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

PROPOSED AGENCY ACTION
ORDER REQUIRING REFUNDS
AND
ORDER TO SHOW CAUSE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the proposed agency action discussed herein requiring refunds is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

K W Resort Utilities Corporation (KWRU or Utility) is a Class A utility providing wastewater service to approximately 1,865 customers in Monroe County. Water service is provided by the Florida Keys Aqueduct Authority (FKAA).

During the Utility's 2015 rate case, we found billing practices that appeared to be inconsistent with the Utility's approved tariff.¹ Subsequently, we ordered that this docket be opened to conduct a full audit and investigation of KWRU's billing practices in order to determine if any orders, rules, or statutes were violated by the Utility.² We have previously

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

²Order No. PSC-17-0091-FOF-SU, issued March 13, 2017, in Docket No. 150071-SU, In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.

addressed incorrect billing practices of the Utility in Order Nos. PSC-02-1165-PAA-SU³ and PSC-02-1711-TRF-SU.⁴

An audit of the Utility's billing practices from April 2013 through March 2017 was completed and filed in the docket file on November 6, 2017.⁵ On November 8, 2017, the Utility acknowledged receipt of the audit report and stated its intent to file a written response. KWRU filed a response to the audit on January 30, 2018, and indicated that it had refunded \$72,701.12 to Meridian West, \$25,512.91 to Banyan Grove, and \$43,402.79 to Flagler Village to remedy KWRU's billing errors.⁶

On March 22, 2018, Commission staff held an informal meeting with representatives from KWRU, the Office of Public Counsel (OPC), and Monroe County (County) to discuss the audit results and ongoing investigation. Following the informal meeting between the parties, staff sent a Notice of Apparent Violation (NOAV) to KWRU on May 17, 2018, by certified letter. On June 12, 2018, OPC submitted written comments addressing KWRU's billing practices, many of which are consistent with Commission staff's NOAV. KWRU responded to Commission staff's NOAV on July 16, 2018.

This Order addresses the results of our audit and investigation into KWRU's billing practices for April 2013 through March 2016. We have jurisdiction in this matter pursuant to Sections 367.081, 367.091, and 367.161, Florida Statutes (F.S.).

Decision

Order to Show Cause

Sections 367.081(1) and 367.091, F.S., permit a utility to charge only its approved rates. We have previously investigated KWRU's billing practices on several occasions. In 2001, Safe Harbor Marina (Safe Harbor), a customer of KWRU, filed a letter with the Division of Consumer Affairs concerning the billing practices of KWRU. In Order No. PSC-02-1165-PAA-SU,⁷ issued August 26, 2002, we determined that KWRU billed Safe Harbor a flat rate that was not in the Utility's tariff and that KWRU was billing discriminatory rates to Safe Harbor. As a result, we approved a unique bulk wastewater rate for Safe Harbor.

Also in 2002, KWRU filed an application for a price index rate adjustment pursuant to Section 367.081(4)(a), F.S. During our review of that application, we became aware of two

³Order No. PSC-02-1165-PAA-SU, issued August 26, 2002, in Docket No. 020520-SU, In re: Complaint by Safe Harbor Marina against K W Resort Utilities Corp. and request for new class of service for bulk wastewater rate in Monroe County.

⁴Order No. PSC-02-1711-TRF-SU, issued December 9, 2002, in Docket No. 021008-SU, In re: Request for approval of two new classes of bulk wastewater rates in Monroe County by K W Resort Utilities Corp.

⁵DN 09533-2017.

⁶KWRU indicated it refunded Meridian West and Flagler Village because its billing system erroneously classified these customer accounts as general service rather than residential. KWRU additionally indicated that it refunded Banyan Grove to correct billing based on FKAA meters instead of 48 multi-family units.

⁷Id.

wastewater charges used in revenue calculations for which there were no approved tariffs. During a conference call between Commission staff and the Utility, the Utility was informed of the findings and asked to provide additional information about the new classes of service. KWRU provided an explanation of the origin and duration of the charges and filed for new classes of service. As a result, Order No. PSC-02-1711-TRF-SU⁸ was issued December 9, 2002, which established a small pool charge and a large pool charge based on demand the Key West Golf Club - HOA (KWGC-HOA) pool facilities placed on the system. In addition, rates for temporary service for a septic tank pumping company were also approved. While we did not order KWRU to issue any refunds or to show cause for charging a rate that was not in its tariff and failing to apply for a new class of service, we put KWRU on notice that it was in violation of Sections 367.091(4) and 367.091(5), F.S. Part of our reasoning in declining to show cause KWRU in Docket No. 021008-SU, was that “[KWRU] now thoroughly [understood] the requirements of Sections 367.091(4) and 367.091(5), Florida Statutes, and will not initiate new classes of service without notifying this Commission in a timely manner.”

On February 18, 2016, during the proposed agency action (PAA) portion of KWRU’s 2015 rate case,⁹ Commission staff sent a letter to KWRU which stated that the Utility’s billing practices for several general service customers appeared to be inconsistent with its approved tariff. The Utility responded to Commission staff’s letter on March 21, 2016. In Order No. PSC-2017-0091-FOF-SU, issued March 13, 2017, we ordered that a separate docket be established to conduct a full audit and investigation into the Utility’s billing practices, and thus, this docket was established. The purpose of the audit and investigation was to determine if any orders, rules, or statutes were violated by the Utility. KWRU responded to Commission staff’s audit on January 30, 2018.

As mentioned in the background above, Commission staff held an informal meeting on March 22, 2018, with representatives from KWRU, OPC and the County. Following this informal meeting, Commission staff issued a NOAV to KWRU on May 17, 2018, by certified letter. Within Commission staff’s NOAV, staff identified the following as the Utility’s apparent noncompliance with our statutes, rules, and orders:

- Negotiated Flat Rate: Order No. PSC-02-1165-PAA-SU, issued August 26, 2002, recognized that KWRU had billed discriminatory rates to Safe Harbor Marina (Safe Harbor) because the monthly flat rate that was billed to this customer was not approved by this Commission, in apparent violation on Section 367.081(2)(a)1., F.S. Following this order, KWRU corrected its billing practices. However, during the billing period of April 2013 through March 2016, KWRU billed Safe Harbor a negotiated rate of \$1,650.67 per month instead of its approved bulk flat rate of \$917.11 per month. The Utility sent a letter, dated April 20, 2009, to this Commission advising it of the Utility’s decision to charge a different unauthorized rate for this wastewater customer. However, this Commission never approved the negotiated rate KWRU billed Safe Harbor.

⁸Id.

⁹In Docket No. 150071-SU, In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.

- Pool Charges: While processing KWRU's 2002 price index request, Commission staff became aware of two charges used in revenue calculations for which there were no Commission-approved tariffs on file. As a result, the Utility formally requested a new class of service for small and large pools. The pool charges for KWGC-HOA were approved by Order No. PSC-02-1711-TRF-SU. Commission staff's audit indicated that KWRU administered the pool charges from tariff Sheet No. 15.7, which was applicable to the KWGC-HOA, to two additional customers, Sunset Marina and Carefree Property between April 2013 and March 2016.
- Base Facility Charge (BFC): Commission staff's audit into the billing practices of KWRU (April 2013 through March 2016) indicated that the Utility billed the following customers BFCs based on the number of units or individual dwellings present behind a master meter, rather than the appropriate BFC based on the customer's meter size, as provided in Tariff Sheet No. 12.0:
 - Sunset Marina
 - General Service Customers: James Beaver, Eadeh Bush Co., and Armando Sosa
 - Ocean Spray Trailer Park
 - Tropic Palm Mobile Home Park
 - Meridian West Apartments
 - Fourth Ave. LLC
 - Banyan Grove
 - ITNOR Waters Edge
 - Roy's Trailer Park
 - Flagler Village

KWRU responded to Commission staff's NOAV on July 16, 2018, and addressed the negotiated flat rate, pool charges, and BFC billing practices identified within the NOAV. In its response, the Utility stated that it mistakenly believed that its revision to Safe Harbor's bulk wastewater rate had been accepted by this Commission, similar to a developer's agreement for service. Additionally, in its response, KWRU pointed out that at the end of 2009, management was moved in-house and has since routinely brought all matters before this Commission. Further, KWRU indicated it believed the pool charges were implemented reasonably under the tariff and were only implemented after consulting with Commission staff.

KWRU responded to the apparent violation of BFC billing practices by admitting it had billed several general service customers incorrect BFCs and stated it was an error that occurred in switching KWRU's billing system after the 2009 rate case. The Utility also addressed Roy's Trailer Park in its response, and explained that it had engaged in numerous discussions with the owner to mitigate the customer's outstanding balance owed to the Utility consistent with KWRU's approved tariffs. In addition, KWRU has made refunds to three of its general service customers to correct incorrect billing practices that occurred prior to the implementation of Order No. PSC-16-0123-PAA-SU (PAA Order) in April 2016. We note that the Utility's billing practices appear to be consistent with its approved tariff following the implementation of the PAA Order.

Pursuant to Section 367.161(1), F.S., we are authorized to impose upon any entity subject to our jurisdiction a penalty of not more than \$5,000 for each day a violation continues, if such entity is found to have refused to comply with or to have willfully violated any lawful rule or order of this Commission, or any provision of Chapter 367, F.S. Each day a violation continues is treated as a separate offense. Each penalty is a lien upon the real and personal property of the utility and is enforceable by us as a statutory lien. If a penalty is also assessed by another state agency for the same violation, our penalty will be reduced by the amount of the other agency's penalty. As an alternative to the above remedies, Section 367.161(2), F.S., permits us to amend, suspend, or revoke a utility's certificate for any such violation. Part of the determination we must make in evaluating whether to penalize a utility is whether the utility willfully violated the rule, statute, or order. Section 367.161, F.S., does not define what it is to "willfully violate" a rule or order.

Willfulness is a question of fact. Fugate v. Fla. Elections Comm'n, 924 So. 2d 74, 75 (Fla. 1st DCA 2006). The plain meaning of "willful" typically applied by the Courts in the absence of a statutory definition, is an act or omission that is done "voluntarily and intentionally" with specific intent and "purpose to violate or disregard the requirements of the law." Fugate at 76.

The procedure we follow in dockets such as this is to determine whether or not the facts warrant requiring the utility to respond; if so, we then issue an Order to Show Cause (show cause order). A show cause order is considered an administrative complaint by us against the utility. When we issue a show cause order, the utility is required to file a written response, which must contain specific allegations of disputed fact pursuant to Rule 28-106.2015, F.A.C. If there are no disputed factual issues, the utility's response should so indicate. The response must be filed within 21 days of service of the show cause order on the respondent.

In determining an appropriate penalty, we consider our prior orders. While Section 367.161, F.S., treats each day of each violation as a separate offense with penalties of up to \$5,000 per offense, we believe that the general purpose of the show cause penalties is to obtain compliance with the our rules, statutes, and orders. If a utility has a pattern of noncompliance with a particular rule or set of rules, a higher penalty may be warranted. If the rule violation adversely impacts the public health, safety, or welfare, the sanction should be the most severe.

The utility has two options when this show cause order is issued. The utility may respond and request a hearing pursuant to Sections 120.569 and 120.57, F.S. If the utility requests a hearing, a further proceeding will be scheduled before we make a final determination on the matter. The utility may respond to the show cause order by remitting the penalty. If the utility pays the penalty, this show cause matter is considered resolved, and the docket closed.

In the event the utility fails to timely respond to the show cause order, the utility is deemed to have admitted the factual allegations contained in the show cause order. The utility's failure to timely respond is also a waiver of its right to a hearing. If the utility does not timely respond, a final order will be issued imposing the sanctions set out in the show cause order. Finally, we note that if we commence revocation or suspension proceedings, we follow very

specific noticing requirements set forth in Section 120.60, F.S., prior to revocation or suspension of a certificate.

By billing rates that are not in the Utility's approved tariff, KWRU appears to be in violation of the statutes. While occasional mistakes may be made by any utility, making excessive and repeated mistakes demonstrates a "willful" disregard for of the utility's obligation to charge its approved rates in the sense contemplated by Section 367.161, F.S., and by Fugate.

As will be discussed later, although the Utility corrected these billing problems following the issuance of the PAA Order, Order No. PSC-16-0123-PAA-SU, in 2016, given the Utility's pattern of failure to bill customers in accordance with its approved tariffs and the number of violations discovered within the three-year audited period, KWRU's mistakes are excessive and, therefore, appear to violate Sections 367.081(1) and 367.091(3), F.S. We find that this situation warrants more than just a warning and hereby order that KWRU shall show cause, in writing within 21 days, as to why it should not be fined \$5,000 for Sunset Marina and \$5,000 for Safe Harbor Marina, for a total of \$10,000, for charging unauthorized rates in violation of Sections 367.081(1) and 367.091(3), F.S. In the event the Utility chooses to remit payment of \$10,000, it shall be made within 60 days following the 21 day period that the Utility has to respond to this show cause order.

Order Requiring Refunds

Appropriate Time Period

As previously discussed, in Order No. PSC-17-0091-FOF-SU,¹⁰ we ordered Commission staff to conduct a full audit and investigation of KWRU's billing practices. Commission audit staff reviewed the Utility's billing records from April 2013 through March 2017. In a letter dated June 12, 2018, OPC noted that Commission staff's audit does not go back to the final order issued in the 2009 rate case when KWRU started incorrectly billing these customers.

We find that time period covered by the audit is a reasonable remedy to mitigate the Utility's incorrect billing practices prior to the implementation of the PAA Order while considering that KWRU has corrected these billing practices following the implementation of the PAA Order. Therefore, we find that the appropriate time period to be considered for potential refunds in this docket is April 2013 through March 2016.

Safe Harbor Marina

Safe Harbor is a unique customer. Not only because this customer owns, operates, and maintains its own lift station; but, it is also a multi-use customer consisting of residential and commercial units, boat slips, and bathhouses. Docket No. 020520-SU was initiated due to a complaint from Safe Harbor concerning the billing practices of KWRU.¹¹ We determined that KWRU had billed Safe Harbor a discriminatory flat rate for Safe Harbor's unmetered

¹⁰Id.

¹¹Id.

bar/restaurant, which was not in KWRU's tariff, and approved a bulk wastewater rate for Safe Harbor.

During KWRU's 2015 rate case, we determined that KWRU was not billing this customer the approved tariff rate. In response to Commission staff's audit, KWRU indicated that it sent us a letter, dated February 27, 2009, stating it would charge a negotiated flat rate to Safe Harbor of \$1,650.67. While we acknowledge that KWRU sent in a letter notifying us of its intent, the Utility failed to appropriately apply for approval of the new rate and have its request brought forth and approved by this Commission. Based on the Utility's history with us, where we have addressed the Utility billing unauthorized rates in Order Nos. PSC-02-1165-PAA-SU and PSC-02-0711-TRF-SU, we believe the Utility is aware of the procedures required for approval of a new rate pursuant to Sections 367.081 and 367.091, F.S., and should not have begun to charge a negotiated bulk rate without our approval.

During the 36 month period from April 2013 through March 2016, KWRU's tariff rate for Safe Harbor Marina was \$917.11 per month (Attachment A). However, during this time period, the Utility billed Safe Harbor a negotiated bulk rate of \$1,650.67. Based on these rates, we determined that KWRU overbilled Safe Harbor by \$733.56 during each billing period. As a result of charging a negotiated rate that was not approved by this Commission. Therefore, we hereby order KWRU to refund \$26,408 ($\733.56×36) with interest in accordance with Rule 25-30.360, F.A.C, to Safe Harbor Marina. The refund shall be completed within 12 months with interest of the consummating order, and documentation supporting the final refund shall be provided to Commission staff within 10 days of the completed refund.

Sunset Marina

Sunset Marina is a general service customer with one two-inch and one eight-inch turbo FKAA meter serving a marina, convenience store, dry boat slips, and apartments. We determined that during the 36 month period (April 2013 - March 2016) KWRU billed Sunset Marina BFCs for 64 residential units in addition to BFCs for the customer's two-inch and eight-inch turbo meters, as well as charges for two small pools and a gallonage charge based on usage.

Based on KWRU's approved tariffs, Sunset Marina should have been billed based on the FKAA meters only. KWRU should not have also billed a residential BFC of \$17.81 per month for each of the 64 apartment units behind the master meters. KWRU overbilled Sunset Marina \$1,139.84 per billing period ($\$17.81 \times 64$ apartment units). Based on the above, we hereby order KWRU to refund \$41,034 ($\$1,139.84 \times 36$) with interest in accordance with Rule 25-30.360, F.A.C., to Sunset Marina. The refund shall be completed within 12 months with interest of the consummating order, and documentation supporting the final refund shall be provided to Commission staff within 10 days of the completed refund.

Pools

As discussed in the show cause section, Order No. PSC-02-1711-TRF-SU, issued December 9, 2002,¹² established a small pool rate of \$41.62 per month and a large pool rate of \$141.08 per month, which considered the demand the KWGC-HOA pool facilities placed on the system. Within that order, we determined that the Utility should not be required to refund any amounts collected from KWGC-HOA, which were billed using unauthorized rates, because the approved rate was higher than the rate the Utility had been collecting from KWGC-HOA. Additionally, as also discussed in the show cause section of that order, we did not order KWRU to issue any refunds or to show cause for charging a rate that was not in its tariff and failing to apply for a new class of service. However, the order put KWRU on notice that it should now thoroughly understand the requirements of Sections 367.091(4) and (5), F.S., and not initiate new classes of service without notifying us in a timely manner.

The investigation and audit determined that KWRU had applied its approved pool rates for KWGC-HOA to other additional customers with pools of similar demands (Sunset Marina and Carefree Property). In the Utility's response dated July 16, 2018, KWRU indicated that it applied its approved pool charges reasonably under its tariff and only implemented the charges after consultation with Commission staff and its assurance that it was appropriate. We cancelled KWRU's tariff sheet for pool charges in the PAA Order. As mentioned previously, KWRU has corrected its billing practices following the implementation of the PAA Order. Therefore, we find that the Utility shall not be required to refund rates charged for pools other than the KWGC-HOA because the Utility believed that the tariff was applicable to any additional customers with pools.

General Service Customers – Unit vs. Metered Billing

In the Utility's 2009 rate case, we transitioned the Utility from flat residential rates to a traditional BFC and gallonage charge rate structure.¹³ In response to the investigation and audit, KWRU agreed that several of its general service customers were billed based on units instead of meter sizes. According to the Utility, this error occurred during the transition from flat to volumetric rates for residential customers and a billing software error which incorrectly identified the customers as residential units. In addition, it appears that the billing determinants in the 2009 rate case may have been based on units rather than meter sizes for some general service customers. As mentioned previously, KWRU has corrected its billing practices following the implementation of the PAA Order in April 2016. Therefore, we find that KWRU does not have to refund general service customers that were billed BFCs based on units and not FKAA meters.

¹²Id.

¹³Order No. PSC-09-0057-FOF-SU, issued January 27, 2009, in Docket No. 070293-SU, In re: Application for increase in wastewater rates in Monroe County by K W Resort Utilities, Corp.

Roy's Trailer Park

Roy's Trailer Park is a general service customer of KWRU consisting of approximately 100 mobile homes which have been converted to multi-units (i.e. duplex, triplex, etc.) and are serviced by 100 FKAA meters. In response to Commission staff's NOAV, KWRU admitted it billed this customer based on the number of units instead of meters dating back to December 2015.

The Utility indicated that the majority of the 100 accounts in Roy's Trailer Park have carried outstanding balances dating back to October 2015. The Utility also indicated that although Roy's Trailer Park made a payment each month for sewer service, the park was not paying its monthly sewer bill in full.

KWRU addressed the billing issues with respect to Roy's Trailer Park by letter dated August 28, 2017, and explained that the customer had repeatedly failed to remit its full payment for numerous billing periods resulting in an outstanding balance of \$49,300.37, which included late payment charges of \$7,215 assessed to all of the Roy's Trailer Park accounts that were delinquent. Roy's Trailer Park agreed to the Utility's settlement proposal of \$35,215.06, which waived the late payment charges and recalculated the customer's bill for October 2015 through March 2016 consistent with the rates established in Order No. PSC-16-0123-PAA-SU. Billing Roy's Trailer Park based on FKAA meters and not units further reduced the outstanding balance by \$6,870.31.

Based on the above, we find that the Utility's settlement with this customer was a reasonable solution to address the corrected outstanding balance for Roy's Trailer Park for this time period. Consistent with our decision regarding unit vs. metered billing, KWRU shall not be required to refund Roy's Trailer Park for the time period of April 2013 through September 2015 during which it billed based on units instead of meters.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that K W Resort Utilities Corp. shall show cause in writing within 21 days why it should not be fined a penalty in the amount of \$10,000 for its violation of Sections 367.081(1) and 367.091(3), F.S. It is further

ORDERED that in the event the K W Resort Utilities Corp. chooses to remit payment of the \$10,000 penalty, it shall be made within 60 days following the 21 day period that the Utility has to respond to this show cause order. It is further

ORDERED that if K W Resort Utilities Corp. does not remit payment, or does not respond to the order to show cause, this docket shall remain open to allow us to pursue collection of the amounts owed by the Utility. If K W Resort Utilities Corp. timely responds in writing to the Order to Show Cause, this docket shall remain open to allow for the appropriate processing of the response. If K W Resort Utilities Corp. timely responds to the show cause order by remitting the penalty, this show cause matter shall be considered resolved. It is further

ORDERED that K W Resort Utilities Corp. shall refund \$26,408 with interest in accordance with Rule 25-30.360, F.A.C., to Safe Harbor Marina. It is further

ORDERED that K W Resort Utilities Corp. shall refund \$41,034 with interest in accordance with Rule 25-30.360, F.A.C., to Sunset Marina. It is further

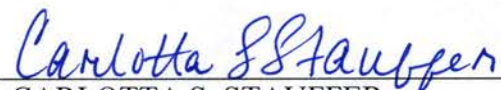
ORDERED that the refunds ordered herein shall be completed within 12 months of this Order, and documentation supporting the final refund shall be provided to Commission staff within 10 days of the completed refunds. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that upon issuance of a consummating order, this docket shall remain open until the show cause matter is resolved, K W Resort Utilities Corp. completes the refunds ordered herein, and K W Resort Utilities Corp. provides documentation of the completed refunds to Commission staff within 10 days of completion. It is further

ORDERED that once the show cause matter is resolved and all ordered refunds have been made and verified by staff, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 31st day of August, 2018.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The show cause portion of this Order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this Show Cause Order may file a response within 21 days of issuance of the Show Cause Order as set forth herein. This response must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 21, 2018.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to the show cause portion of this Order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this Order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

As identified in the body of this Order, our action requiring refunds is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this Order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 21, 2018. If such a petition is filed, mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing. In the absence of such a petition, this Order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this Order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

**ELEVENTH REVISED SHEET #15.5
CANCELS TENTH REVISED SHEET #15.5**

**NAME OF COMPANY: KW RESORT UTILITIES CORPORATION
SEWER TARIFF**

**BULK WASTEWATER RATE FOR
SAFE HARBOR MARINA**

AVAILABILITY - For Safe Harbor Marina.

APPLICABILITY - For Safe Harbor Marina

LIMITATIONS - Subject to all Rules and Regulations of this Tariff and General Rules and Regulations of The Commission as amended from time to time.

BILLING PERIOD - Monthly.

<u>RATE</u> -	13 Residential living units at 1 ERC each (apartments, Mobile homes, House Boats with apartments)	\$343.66
	18 Live Aboard Boats at .6ERC each	286.38
	27 Non Live Aboard Boats at 1/5 ERC each	143.20
	6 Vacant slips at 1/5 ERC each	30.84
	2 Bathhouses at 1 ERC each	52.87
	2 Commercial Businesses at 1/2 ERC each	26.43
	1 Commercial Bar	33.73
	<u>Total Bulk Rate</u>	<u>\$ 917.11</u>

TERMS OF PAYMENT Bills are due and payable when rendered and become delinquent if not paid within twenty (20) days. After five (5) working days, written notice, separate and apart from any other bill, service may then be disconnected.

EFFECTIVE DATE: MARCH 30, 2013

ORDER NO.:

TYPE OF FILING: 2012 PRICE INDEX INCREASE

FOR SERVICE RENDERED ON OR AFTER MARCH 30, 2013

Christopher A. Johnson
Issuing Officer

President
Title