

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

Docket No. 150071-SU

CROSS-PETITION OF K W RESORT UTILITIES CORP.
FOR A FORMAL ADMINISTRATIVE HEARING

K W RESORT UTILITIES CORP. (the *Utility*), by and through its undersigned attorneys and pursuant to Section 120.57, Florida Statutes, and Rules 25-22.029(3) and 28-106.201, Florida Administrative Code, files this Cross-Petition for Formal Administrative Hearing, protesting Order No. PSC-16-0123-PAA-SU (*Order*) of the Florida Public Service Commission (*Commission*) issued March 23, 2016, and states:

Preliminary Matters

1. The name and address of the agency affected and the agency's docket number is:

Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850
Docket No. 150071-SU

2. The name of the Utility and its mailing address is:

K W Resort Utilities Corp.
6630 Front Street
Key West, FL 33040

3. The names and address of the persons authorized to receive notices and communications in respect to this application are:

Barton W. Smith, Esquire
Smith Oropeza Hawks, P.L.
138-142 Simonton Street
Key West, FL 33040
Telephone: (305) 296-7227/Fax (305) 296-8448
Email: bart@smithoropeza.com

Martin S. Friedman, Esquire
Friedman & Friedman, P.A.
766 N. Sun Drive, Suite 4030
Lake Mary, FL 32746
Telephone: (407) 830-6331/Fax: (407) 878-2178
Email: mfriedman@ff-attorneys.com

4. The Utility obtained a copy of the Order on March 23, 2016 from the Commission by email, and copies by email of OPC's Petition, and Monroe County's Petition on April 13, 2016.

5. The interests of the Utility are substantially affected by the Order. The specific facts that the Utility contends warrant reversal or modification of the Order are as follows (plus the fall-outs resulting from those facts):

a. Should the pro forma plant be included in a single phase increase instead of as a Phase II rate increase?

b. What is the appropriate amount of pro forma plant?

c. What is the appropriate used and useful percentage for the pro forma plant?

d. What is the appropriate amount of Working Capital to be used in determining the rate base?

e. What is the appropriate level of expenses for KWRU related to meeting AWT standards?

f. What is the appropriate weighted average cost of capital when incorporating the pro forma plant?

g. What are the pro forma expenses?

- h. What is the appropriate amount of the Last Stand Legal Fees?
 - i. What are the appropriate management fees payable to Green Fairways?
 - j. What is the appropriate amount of Contractual Services?
 - k. What is the appropriate rate case expense?
 - l. What is the appropriate billing treatment of private homes with FKAA meters located within homeowner's associations?
 - m. What are the appropriate service charges?
 - n. Should KWRU be permitted to continue collecting service availability charges?
 - o. What is the appropriate post PAA-Order rate case expense in connection with the protests by OPC and Monroe County?
6. Each of the foregoing matters involves disputed issues of material fact.
7. The Order establishes April 13, 2016 as the date by which Petitions must be filed, and pursuant to Rule 25-22.029, Florida Administrative Code, Cross-Petitions may be filed within 10 days thereafter. This Cross-Petition is timely filed.
9. Sections 367.081, and 367.0816, Florida Statutes, are the specific statutes that the Utility contends requires reversal or modification of the Order.
10. This Cross-Petition is filed for the purpose of seeking the Commission's action with respect to the following (and all fall-out changes that result from such determinations). Any specific amounts are subject to change based upon future discovery:
- a. The pro forma plant should be included in a single rate increase instead of a separate phase.
 - b. Pro forma should be increased to include known cost of plant and the air vac tank that needs replacing.

- c. The pro forma wastewater treatment plant should be 100% used and useful.
- d. Working Capital should not include reductions for capital account and customer deposits.
- e. There should be no reduction in the level of expenses requested by KWRU related to meeting AWT standards.
- f. The appropriate weighted average cost of capital should include the pro forma plant and equity infused into the Utility for payment for the pro forma plant.
- g. No adjustments should be made to the Utility's pro forma expenses.
- h. Last Stand Legal Fees to be amortized total \$487,564.07.
- i. KWRU should recover the \$60,000 management fee it pays to Green Fairways, Inc.
- j. Contractual Services should not be reduced by \$13,003.
- k. KWRU should recover pre-PAA order rate case expense in the amount of \$188,147.57.
- l. Private homes with FKAA meters located within homeowner's associations should be billed based upon the individual meters.
- m. The Commission should approve the requested miscellaneous service charges.
- n. KWRU should be permitted to continue collecting its current service availability charges.
- o. Grant additional rate case expense necessitated by OPC's and Monroe County's Protests.

WHEREFORE, the Utility hereby Cross-Protests and objects to Order No. PSC-16-0123-PAA-SU as to the specific issues raised in this Cross-Petition, and cross-petitions the Commission to conduct a formal evidentiary hearing, under the provisions of Section 120.57(1), Florida

Statutes, and further requests that such hearing be scheduled at a convenient time within or as close as practical to the Utility's certificated service area.

Respectfully submitted on this 21st day of
April, 2016, by:

SMITH OROPEZA HAWKS, P.L.
138-142 Simonton Street
Key West, FL 33040
Telephone: (305) 296-7227
Fax: (305) 296-8448
bart@smithoropeza.com

/s/ Barton W. Smith
Barton W. Smith, Esquire
For the Firm

FRIEDMAN & FRIEDMAN, P.A.
766 North Sun Drive, Suite 4030
Lake Mary, FL 32746
Telephone: (407) 830-6331
Fax: (407) 878-2178
mfriedman@ff-attorneys.com

/s/ Martin S. Friedman

Martin S. Friedman, Esquire
For the Firm

CERTIFICATE OF SERVICE
DOCKET NO. 150071-SU

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

E-mail to the following parties this 21st day of April, 2016:

Erik L. Sayler, Esquire
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, FL 32399-1400
SAYLER.ERIK@leg.state.fl.us

Martha Barrera, Esquire
Office of General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
mbarrera@psc.state.fl.us

Robert Scheffel Wright, Esquire
John T. LatVia, III, Esquire
Gardner, Bist, Bowden, Bush, Dee, LaVia & Wright, P.A.
1300 Thomaswood Drive
Tallahassee, FL 32308
schef@gbwlegal.com
jlavia@gbwlegal.com

/s/ Martin S. Friedman

MARTIN S. FRIEDMAN
For the Firm