

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Application for increase in )  
wastewater rates in Monroe County by K W ) Docket No: 150071-SU  
Resort Utilities Corp. )  
\_\_\_\_\_ )

**OFFICE OF PUBLIC COUNSEL'S RESPONSE TO  
K W RESORT UTILITIES CORP.'S MOTION TO COMPEL PRODUCTION OF  
DOCUMENTS AND INTERROGATORIES**

The Citizens of the State of Florida, by and through the Office of Public Counsel ("OPC" or "Citizens"), pursuant to Rule 28-106.204, Florida Administrative Code ("F.A.C."), hereby respond to K W Resort Utilities Corp.'s ("KWRU's" or "Utility's") Motion to Compel Production of Documents and Interrogatories ("Motion").

**SUMMARY**

KWRU's Motion to Compel should be denied because OPC's objections and responses to the discovery requests at issue are sufficient both factually and as a matter of law. The Motion is conclusory, factually inaccurate in places, and fails to adequately explain how OPC's objections or responses to its discovery were inadequate under the applicable statutes and rules governing Florida Public Service Commission ("Commission" or "FPSC") ratemaking proceedings or the Florida Rules of Civil Procedure ("FRCP"). Moreover, the Motion misconstrues the Commission's Proposed Agency Action ("PAA") process following the timely protest of a PAA Order, it misapprehends the Utility's burden of proof in these proceedings, and as such, the Motion is legally deficient, premature, and frivolous given the posture of this proceeding. Moreover, OPC is not required by the Order Establishing Procedure ("OEP") governing discovery matters and controlling dates in this docket, nor any applicable statutes or rules, to publically set forth or disclose its final and complete positions (or even to have fully formulated such positions or disclose its formulation

or decision-making process on such positions) on the protested issues identified in OPC's Protest Petition,<sup>1</sup> protesting the PAA Order<sup>2</sup> until September 9, 2016, the deadline for filing intervenor testimony pursuant to the OEP. Therefore, OPC's timely objections and responses to KWRU's discovery requests (interrogatories and requests for production) were more than adequate given the posture of this case. In addition, OPC's objections and responses accurately reflect OPC's positions on the protested issues in the PAA Order at the time OPC responded to KWRU's discovery. Furthermore, OPC's objections and responses satisfy OPC's burden under applicable statutes and rules governing Commission ratemaking proceedings. Lastly, given the posture of this case two months prior to the filing of intervenor testimony, KRWU's Motion to Compel is frivolous and effectively harassing and diversionary, attempting to create a dispute where none exists, and thus any rate case expense associated with this Motion should be denied.

#### BACKGROUND

1. This background is relevant to the history of this case and to correct some factual errors in KWRU's Motion to Compel. On February 18, 2016, the Commission staff's PAA recommendation on KWRU's request for rate increase was filed.

2. On February 23, 2016, OPC requested staff's PAA recommendation workpapers, spreadsheets, and other documents related to the PAA recommendation not included in the publically available, online docket file. Staff's PAA recommendation workpapers were provided to OPC on February 24, 25, 29, March 31, and July 1, 2016, respectively.

3. On February 24, 2016, the Citizens filed its Notice of Intervention in this docket. On March 1, 2016, the Commission considered arguments by KWRU, OPC, Monroe County, some customers, and staff for and against staff's PAA recommended rate increase.

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<sup>1</sup> Petition requesting evidentiary hearing on the protested potions of the proposed agency action ("Protest Petition" or "Petition").

<sup>2</sup> PAA Order No. PSC-16-0123-PAA-SU ("PAA Order"), granting in part and denying in part, KWRU's requested rate increase.

4. On March 23, 2016, the Commission issued Order No. PSC-16-0123-PAA-SU (“PAA Order”), granting in part and denying in part KWRU’s requested rate increase.

5. On April 13, 2016, the OPC and Monroe County timely filed their respective protests of the PAA Order, requesting an evidentiary hearing. On April 20, 2016, Harbor Shores Condominium Unit Owners Association, Inc. (“Harbor Shores”), filed a cross-petition protesting portions of the PAA Order, and on April 21, 2016, KWRU filed its Cross-Petition for a Formal Administrative Hearing (“KWRU’s Cross-Petition”) protesting portions of the PAA Order.

6. On May 5, 2016, KWRU propounded its First Set of Interrogatories to OPC (Nos. 1-44) (“Interrogatories”) and First Set of Requests for Production of Documents to OPC (Nos. 1-44) (“Requests for Production”) (hereinafter collectively referred to as “Discovery Requests”).

7. On May 17, 2016, the Order Establishing Procedure (“OEP”) Order No. PSC-16-0194-PCO-SU was issued by the prehearing officer.

8. Pursuant to prior agreement with counsel for KWRU, on June 9, 2016, OPC timely objected to and served its responses to KWRU’s Interrogatories, and June 27, 2016, OPC timely objected to and served its responses to KWRU’s Requests for Production.

9. Consistent with the OEP and FRCP, OPC raised general and specific objections to each of KWRU Discovery Requests as needed. Further, OPC responded to KWRU’s Interrogatories and Requests for Production in compliance with its duties under the law, and provided responsive documents that were not otherwise already in KWRU’s possession or publically available in the Commission’s online docket file.

10. Further, in a gesture of good faith, OPC also provided KWRU all the staff PAA recommendation workpapers and accompanying emails, which OPC had received from February 25 to July 1, 2016, and which it is reasonable to assume KWRU had already requested and received from staff prior to the date OPC served its response to KWRU’s request for production. OPC notified KWRU of its intent to provide those workpapers to KWRU on July 1, 2016, but due to an illness, OPC was unable to provide KWRU those workpapers until July 5, 2016.

11. On July 1, 2016, KWRU filed its Motion to Compel Production of Documents and Interrogatories from the Office of Public Counsel.

FACTUAL INACCURACIES IN KWRU'S MOTION TO COMPEL

12. There are a few factual inaccuracies in KWRU's Motion to Compel. Paragraph 8 insinuates that OPC had been provided all documents which formed the basis for staff's PAA recommendation on February 18, 2016, the date the recommendation was filed. That is incorrect. OPC received staff's PAA recommendation workpapers via email over a period of several months, starting on February 24 and ending July 1, 2016. OPC does not dispute that it had received the audit workpapers prior to February 18, 2016.

13. Paragraph 10 conflates the date the Commission considered staff's PAA recommendation (March 1, 2016) with the date the Commission issued the PAA Order (March 23, 2016).

14. Paragraph 13 states that OPC used a blanket objection to a majority of its requests, implying that OPC did not substantively respond to the underlying Interrogatories or Requests for Production. This is incorrect. Due to the timing and posture of this case, namely there had been a timely global protest of the PAA Order, that KWRU had yet to file its direct testimony, and that, pursuant to the OEP, intervenors were not required to file testimony until September 9, 2016, OPC's objections and responses were adequate for responding to KWRU's premature discovery. The objections and responses may well have been necessarily repetitive, since KWRU's discovery requests were repetitive and boilerplate. Nonetheless, OPC's responses were factually and legally accurate; moreover, the applicable statutes, rules, and FRCP have no prohibition against repetitive objections and responses to similarly repetitive discovery so long as they are factually and legally accurate.

## APPLICABLE LEGAL STANDARDS & BURDEN OF PROOF

15. It is well settled that a utility seeking an increase in rates bears the burden of proof. *Fla. Power Corp. v. Cresse*, 412 So. 2d 1187, 1191 (Fla. 1982) (“Burden of proof in a commission proceeding is always on a utility seeking a rate change ...”). Moreover:

The act of filing [for a rate case] creates issues of material fact for all factors comprising the justification for the increase. . . . [U]nder the commission's rate-setting authority, a utility seeking a change must demonstrate that the present rates are unreasonable. . . and show by a preponderance of the evidence that the rates fail to compensate the utility for its prudently incurred expenses and fail to produce a reasonable return on its investment.

*S. Fla. Natural Gas Co. v. Pub. Serv. Com.*, 534 So. 2d 695, 697 (Fla. 1988) (citing *Gulf Power Co. v. Public Serv. Comm'n*, 453 So. 2d 799 (Fla. 1984)). The issuance of a *Proposed Agency Action Order* does not shift the burden of proof away from the utility in the event of a timely protest; the utility bears the burden regardless of who initiates the protest. Therefore, KWRU (and not OPC) bears the burden of proving in the evidentiary hearing on the protests and cross-protests of the PAA Order that its present rates are unreasonable, and KWRU must to show by a preponderance of the evidence that its present rates have failed or will fail to compensate it for its prudently incurred expenses or produce a reasonable return on KWRU's investment. *See also Sunshine Utils. v. Florida Pub. Serv. Comm'n*, 577 So. 2d 663, 665-666 (Fla. 1<sup>st</sup> DCA 1991) (rejecting argument that party other than the utility had the burden of presenting evidence on critical facts); *Florida Public Service Comm'n v. Florida Waterworks Ass'n.*, 731 So. 2d 836, 841 (Fla. 1<sup>st</sup> DCA 1999) (“The burden of proof in ratemaking cases in which a utility seeks an increase in rates rests on the utility.”). KWRU misapprehends its burden under the law, and KWRU cannot, by and through its Motion to Compel, shift its burden of proof to the Citizens and its customers. KWRU's flawed logic regarding its purported search for the “factual basis” of the PAA protest further demonstrates that the Utility misapprehends its own burden of proof in this matter.

16. It is well-established that a party cannot be required to produce documents which it does not possess and/or which have not been shown to exist. *E.g., Balzebre v. Anderson*, 294 So. 2d

701, 702 (Fla. 3d DCA 1974). In several instances, OPC properly indicated there were no responsive documents, therefore, cannot be compelled to produce them.

17. Neither can OPC be compelled to create documents that do not already exist. *See* Order No. PSC-07-0032-PCO-EU, issued January 9, 2007, in Docket No. 060635-EU, *Order Denying Emergency Request for Oral Argument and Motion to Compel and Granting Motion for Protective Order* (stating “However, the utility shall not be required to create new documents, undertake new analysis, or create new studies or reports. . . . If the requested information does not already exist, or is not already known to the utility, it shall simply so state in its response.”) (quoting Order No. PSC-99-0708-PCO-WS, issued April 13, 1999, in Docket No. 950495-WS) (citation omitted).

18. Discovery never was intended to be used as a tactic to harass an adversary; nor was it intended to make the discovery process so costly that it could effectively deny access to information and witnesses or cause parties to resolve their disputes unjustly. *See Elkins v. Syken*, 672 So. 2d 517, 522 (Fla. 1996). “[D]iscovery was never intended to be used and should not be allowed as a tactic to harass, intimidate, or cause litigation delay and excessive costs.” *Dodson*, 390 So. 2d at 707.

#### OPC’S RESPONSES ARE FACTUALLY AND LEGALLY SUFFICIENT

19. The pending Motion to Compel should be denied because OPC’s objections and responses to the discovery requests at issue are sufficient both factually and as a matter of law. Moreover, the Motion misconstrues the Proposed Agency Action (“PAA”) process, particularly by misstating the burden of proof, and as such, is legally deficient and premature.

20. KWRU claims in its Motion that OPC’s discovery responses are inadequate because it cannot ascertain from the responses the factual basis upon which the Citizens based its protest of the PAA Order. Notwithstanding the fact that the Citizens outlined the facts in its Protest Petition, once a protest is filed, the Utility retains the burden it had at the time it filed its initial petition to

show that it is entitled to a rate increase.<sup>3</sup> OPC globally protested the PAA Order in order to preserve its rights to litigate disputed issues of fact, otherwise it would have been deemed stipulated pursuant to Section 120.80(13)(b), Florida Statutes (“F.S.”).<sup>4</sup> OPC fully satisfied its statutory obligations regarding the statement of facts when it filed its Protest Petition which in complied with all requirements of Section 120.569(2)(c), F.S., and Rule 28-106.201, F.A.C. After the comprehensive protest of the PAA Order, the Utility was placed back in the same position it would have been had the case not been processed as a PAA.

21. When a rate case is set straight for a Section 120.57(1) hearing, propounding discovery in advance of the intervenor’s testimony filing on the non-utility intervenor party, asking what their position is or factual basis for their position on the utility’s request for rate increase would be deemed harassment and diversionary. Similar discovery when there is post-PAA protest evidentiary hearing is likewise improper prior to the filing of intervenor testimony.<sup>5</sup>

#### DISCOVERY TO CITIZENS PREMATURE GIVEN THE POSTURE OF THE CASE

22. The type and scope of the discovery served by KWRU is routinely served in proceedings before the Division of Administrative Hearing (“DOAH”); however, such broadly drafted discovery, seeking to know the factual basis for an intervenor’s position on every potential issue prior to the filing of intervenor testimony, is simply not done in Section 120.57(1), F.S., proceedings before the Commission. Further, its broadly drafted, premature discovery is akin to a fishing expedition which its Motion accuses OPC of conducting. Motion at 5.

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<sup>3</sup> KWRU cites to Section 120.569(2)(e), F.S., for the proposition that Section 120.569, F.S., requires OPC’s discovery responses to “support the factual basis” of its Protest Petition. However, the plain language of the statute does not support KWRU’s proposition, and KWRU failed to cite a specific sub-section or PSC Order for support. KWRU is the petition for purposes of seeking a change in rates, and thus has the burden of proof in any rate change proceeding. *See e.g., Fla. Power Corp. v. Cresse*, 412 So. 2d at 1191. No portion of the statute shifts the burden of proof in this action from KWRU to OPC.

<sup>4</sup> Section 120.80(13)(b), F.S., states: “Notwithstanding ss. 120.569 and 120.57, a hearing on an objection to proposed action of the Florida Public Service Commission may only address the issues in dispute. Issues in the proposed action which are not in dispute are deemed stipulated.”

<sup>5</sup> Discovery to identify expert and fact witnesses is contemplated under the OEP, but discovery to obtain the factual basis for every protested issue is not.

23. The Order Establishing Procedure governs procedural matters in this docket, including but not limited to, pre-filed testimony and exhibits, *discovery procedures*, prehearing and hearing procedures, and *controlling dates*. The controlling dates specify when the Utility, intervenor parties, and staff pre-file their testimony in this case. In this case, intervenor testimony is due September 9, 2016. Had KWRU waited until the OEP was issued, less than two weeks after it propounded its premature discovery, it would have been apprised of the discovery procedures and controlling dates applicable to this proceeding.

24. As stated earlier, OPC is under no legal obligation to *fully and completely* share the factual basis for each and every issue OPC protested in the PAA Order. To OPC's knowledge, no utility or intervenor party has ever been asked, let alone compelled by the Commission, to fully explain the factual basis for each of its positions prior to the pre-filing of its testimony and exhibits. This is not a burden that accompanies the protesting of a PAA Order.

25. OPC shared as much of the factual information available to OPC at the time of OPC's response to KWRU's Discovery Requests. OPC will update and provide KWRU additional facts and evidence on September 9, 2016. The best evidence for the factual basis for issues protested by OPC will likely be addressed in the Utility's pre-filed testimony (if it desires to meet its burden of proof) as well as the testimony that OPC is likely to pre-file on September 9, 2016. In order to fully form the factual basis for its positions, OPC will review the testimony filed by the Utility on July 1, 2016, conduct additional discovery, and file its responsive testimony, pointing out any issues with the Utility's testimony and exhibit, thus supporting the factual basis for OPC's protested issues. Therefore, every single Interrogatory or Requests for Production seeking the fully formed factual basis for OPC's protested issues are premature.

#### KWRU'S MOTION IMPERMISSIBLY SEEKS OPC'S TRIAL PREPARATION MATERIALS

26. FRCP Rule 1.280 sets forth the General Provisions Governing Discovery and FRCP Rule 1.280(b)(4), shields from discovery trial preparation materials *unless* the party seeking the

discovery of those materials prepared in the anticipation of litigation makes the requisite showing of *need* for “the materials in the preparation of the case and is unable *without undue hardship* to obtain the substantial equivalent of the materials by other means.” (emphasis added).

27. Many of the documents KWRU requested are trial preparation materials which OPC either obtained from KWRU or the Commission’s website or staff through public records requests; many of these documents are already in KWRU’s own possession or can reasonably be obtained from the Commission’s website or through use of a legal search engine.

28. Furthermore, KWRU was able to prepare its direct case, and pre-filed testimony and exhibits on July 1, 2016, consisting of many documents it created for the PAA rate case and upon which OPC will rely for its trial preparation. Therefore, KWRU has not shown need or undue hardship required to compel OPC’s trial preparation materials which are already in KWRU’s possession or publically available.

CITIZENS’ DISCOVERY RESPONSES FULLY COMPLY WITH THE LAW

29. The Citizens are not under an affirmative legal obligation to prove facts of a rate case at the discovery stage, and particularly not before the Utility has satisfied its burden of producing facts to show it is entitled to a rate increase, pursuant to the Order Establishing Procedure, (“OEP”), PSC-16-0194-PCO-SU. KWRU’s flawed logic regarding its purported search for the “factual basis” of the PAA protest further demonstrates that the Utility misapprehends its own burden of proof in this matter and the Commission’s evidentiary hearing process following a timely protest of a PAA Order.

30. As to the factual sufficiency of the Motion, KWRU omitted and utterly failed to address most of OPC’s detailed objections and responses to the discovery at issue, and instead provided a mere excerpt of an objection removed from context. Contrary to KWRU’s representations, OPC did not make one blanket objection to most of the discovery requests, but

instead provided separate, individual objections and responses to each Interrogatory and Requests for Production.

31. The instant Motion is further deficient for its failure to correctly cite or counter the specific factual objections to each of the 38 interrogatory responses and 37 request for production responses with which it purports to take issue. KWRU made no attempt whatsoever to explain its theory on why the objections and responses to each discovery request are inadequate. Due to the lack of detail or coherence in the Motion to Compel, it is difficult for the Citizens to formulate a response. Nonetheless, because the Motion appears to focus on one word (“premature”), out of several discovery objections raised by the Citizens, this response will address KWRU’s arguments in that regard.

32. KWRU improperly argues that a lack of existing, responsive documents or a fully formed case strategy at the pre-discovery stage equates to a lack of “factual basis” for the PAA protest, which in turn somehow renders OPC’s protest of the PAA Order frivolous or otherwise improper. With this argument, KWRU not only erroneously confuses the rights and obligations applicable to the Protest Petition and discovery stages with those that are applicable to the final hearing, but also misstates the burden of proof which governs the instant proceeding.

33. In the Motion to Compel, KWRU misrepresented OPC’s discovery responses by cherry-picking *portions* of OPC’s objections and responses to cite in the Motion while *omitting* the remainder of the full text. The potential for drawing erroneous inferences from those misrepresentations is apparent when OPC’s full responses are considered, and the propriety of the responses is clear.

34. For example, in Request for Production No. 8, KWRU requested “[a]ny and all documents supporting, negating, related to, or identified in your response to Interrogatory No. 10 in KWRU’s First Set of Interrogatories to Petitioner Citizens of the State of Florida.” Citizens responded as follows:

**OBJECTION:**

OPC objects to providing documents to the extent that these documents are already in the public record before a public agency and available through normal procedures or is readily accessible through legal search engines. To the extent this request seeks otherwise privileged information, OPC objects. To the extent this request is vague, ambiguous, overly broad, imprecise or premature, since the utility has yet to pre-file its testimony and exhibits, OPC objects. Documents subject to this request may be filed as part of any pre-filed testimony and exhibits, if any, filed on September 9, 2016 in support of OPC's protest of the PAA Order.

**RESPONSE:**

Without waiver of OPC's objection, OPC responds **the documents and information it will rely upon are in the online docket file, and the utility has either access to or actual possession of those documents.** As for other evidence, since neither the utility nor any other intervenor party has pre-filed testimony and exhibits, **there is no competent, substantial evidence that demonstrates the utility is entitled to any rate increase.**

OPC's Response to KWRU's First Request for Production, No. 8 (emphasis added).

35. Thirty-six (36) of KWRU's Requests for Production were worded in the exact same manner as Request for Production No. 8 – they broadly and without specificity requested documents which support answers to individual interrogatories. OPC responded to No. 8 that the responsive documents were those which are in the PSC's docket file. As stated in the response, any other potentially responsive documents were not in the possession of the OPC or were not shown to exist. As such, the Motion fails as a matter of law because it is well-established that a party cannot be required to produce documents which it does not possess and/or which have not been shown to exist. *E.g., Balzebre v. Anderson*, 294 So. 2d 701, 702 (Fla. 3d DCA 1974).

36. In OPC Responses to Requests for Production Nos. 13-14, and 16-43, OPC properly stated "there are no responsive documents other than those already in the utility's possession." Where OPC affirmatively states it does not have responsive documents, it is unclear what exactly KWRU seeks to compel. Consistent with *Balzebre, et al.*, Citizens are not obligated to create new documents or to perform analyses that KWRU is capable of performing itself. Where additional documents are not known to a party, a response stating so is sufficient, as a matter of law. *See* PSC-07-0032-PCO-EU, Order Denying Emergency Request for Oral Argument and Motion to Compel and Granting Motion for Protective Order.

37. As another example, in response to Interrogatory No. 8 regarding “cost of capital”, OPC properly responded:

*The determination of the appropriate cost of capital is a fallout issue in every rate case and will be made after all the evidence has been adduced at hearing, thus a response to this interrogatory is premature. The documents and information OPC will rely upon are in the online docket file, and/or the utility has either access to or actual possession of those documents. OPC is awaiting responses to discovery and review of the utility’s direct testimony and will, upon receipt, review and analysis, only then be able to formulate with formalized specificity the complete basis for its contention.*

(emphasis added). OPC responded in similar manner to most of KWRU’s Interrogatories.

38. Additionally, the discovery requests at issue are objectionably vague, overly broad, imprecise, and unduly burdensome, in part because less burdensome means of discovery are available to obtain the information and documents KWRU seeks. For example, KWRU’s requests are broad enough to sweep up items such as Commission orders, which are already in the public record before a public agency, and available through normal procedures, or readily accessible through legal search engines. Compliance with requests such as this would impose undue burden and expense to the Citizens.

39. OPC properly responded to the discovery requests with the information OPC obtained after a reasonable and diligent search conducted pursuant to the discovery requests. Citizens provided the responsive information to which it had access. After Citizens gain access to more data, additional information subject to the discovery request may be calculated, prepared and filed as part of the Citizens’ pre-filed testimony and exhibits. In any case about a company’s rates, the company itself possesses the most current data inputs required for the multiple, complex formulations necessary to evaluate rates.

40. The Utility’s Motion references its prior request for test year approval and an audit, as if to suggest that the information which resulted from those matters should have been enough for the Citizens to have prepared its entire protest case in chief on the day it filed the protest. However,

if that were the case, the Commission's procedures and rules would not provide for a discovery process in which the Citizens are also allowed to seek information post-petition.

KWRU'S IMPROPER USE OF DISCOVERY AND MOTION PRACTICE

41. Discovery never was intended to be used as a tactic to harass an adversary. *Elkins v. Syken*, 672 So. 2d 517, 522 (Fla. 1996). It follows that motion practice associated with discovery should comply with the same precepts – motions to compel should not be exercises in harassment, bullying, or veiled coercion. In its Motion, KWRU essentially threatens the Citizens that if they dare to protest the company's attempts to raise its rates, that the resulting litigation and discovery costs (which are being increased by KWRU's baseless Motion) will only add to the costs the KWRU's customers may ultimately have to pay via their wastewater bills. KWRU further suggests in its Motion that any potential cost-saving resolution of this matter has been all but foreclosed, at this early stage of the proceeding (more than 4 months before the hearing), because it is dissatisfied with the discovery responses. KWRU should not be rewarded for this behavior with any rate case expense.

MOTION TO COMPEL IS FRIVOLOUS, AND ASSOCIATED RATE CASE EXPENSE SHOULD BE DENIED

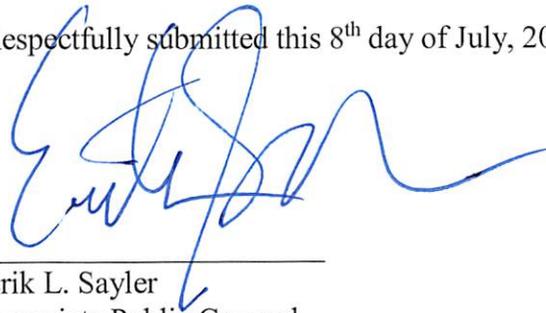
42. The Citizens submit that the Commission should disallow any rate case expense associated with KWRU's premature, frivolous motion to compel. § 367.081, Fla. Stat. provides that the Commission "shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer."

43. The instant Motion is patently unreasonable, in that KWRU, having served discovery before the OEP was issued, reasonably knew that the responsive due date would precede the filing of its own testimony and exhibits. As an experienced litigant, the Utility reasonably knew that many of the items it requested would not have been fully formulated or in existence by the due date because the Citizens reasonably rely upon the direct testimony, exhibits, and evidence submitted by a utility

in formulating its response opposing the Utility's requested rate relief. Moreover, any reasonable search of rules, statutes and case law would demonstrate that KWRU bears the burden of proof in this matter; therefore, the sole basis of its Motion – the purported failure of Citizens to carry a burden of proof during the discovery stage of this litigation – is a foreseeably and demonstrably erroneous basis on which to file the instant Motion.

WHEREFORE, Office of Public Counsel, respectfully requests this Commission deny KWRU's Motion to Compel Production of Documents and Interrogatories from the Office of Public Counsel, and disallow all rate case expense associated with the Motion.

Respectfully submitted this 8<sup>th</sup> day of July, 2016



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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing OFFICE OF PUBLIC COUNSEL'S RESPONSE TO K W RESORT UTILITIES CORP.'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS AND INTERROGATORIES has been furnished by electronic mail this 8<sup>th</sup> day of July, 2016 to:

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