

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase  
in Wastewater Rates in Monroe  
County by K W Resort Utilities Corp.

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Docket No. 150071-SU

REBUTTAL TESTIMONY

OF

FRANK SEIDMAN

on behalf of

K W Resort Utilities Corp.

1 **Q. Please state your, name profession and address.**

2 A. My name is Frank Seidman. I am President of Management and Regulatory Consultants,  
3 Inc., consultants in the utility regulatory field. My address is 36 Yacht Club Dr., North  
4 Palm Beach, FL 33408.

5 **Q. Have you previously presented testimony in this case?**

6 A. Yes. I have previously presented direct testimony on behalf of the applicant, K W Resort  
7 Utility Corp. (KWRU).

8 **Q. What is the purpose of your rebuttal testimony?**

9 A. The purpose of my rebuttal testimony is to respond to the conclusion reached by Office of  
10 Public Counsel witness Andrew T. Woodcock that the Used & Useful percentage for the  
11 WWTP should only be 75%. And in that respect I also disagree with a similar conclusion  
12 reached by PSC staff in Order No. PSC-16-0123-PAA-SU in this docket that the Used &  
13 Useful percentage be only 72%.

14 **Q. Why do you disagree with these conclusions?**

15 A. In reaching their conclusions they relied on the basic formula set out in Rule 25-30.431  
16 F.A.C. but failed to look beyond the formula to consider the several factors set out in  
17 Sections 367.081(2)(a)2 and (3) F.S. and Rule 25-30.432 F.A.C. When these factors are  
18 considered, regardless of the mathematical results, the WWTP should be considered 100%  
19 Used & Useful. The factors of relevance were pointed out in KWRU's filing Exhibit DDS-1  
20 at MFR Schedule F-4 as previously filed.

21 **Q. Is there precedent for such action?**

22 A. Yes. In KWRU's last case, Docket No. 070293-SU, the Commission was presented with an  
23 almost identical situation. In that case, OPC Witness Woodcock calculated the Used &  
24 Useful for the WWTP to be 72%. KWRU argued that the factors for consideration pursuant  
25 to Rule 25-30.432 and Section 367.081(2)(aa)2.c.,F.S. exist to find the WWTP 100% Used  
26 & Useful. In PSC Order PSC-09-0057-FOF-SU, the PSC stated:

1            “[in] its post hearing statement, the Utility states that the factors clearly  
2            exist which we should consider, pursuant to Rule 2[4]-30.432 F.A.C., to  
3            find that the existing wastewater treatment plant and the expansion,  
4            refurbishment, and upgrade of KWRU's facilities are 100 percent used and  
5            useful. In this regard, the Utility states that we should consider the growth  
6            of the system, the mandate of the legislature and Monroe County which  
7            directly resulted in the upgrade and expansion; and the nature and reality of  
8            the service area and the mandatory connection ordinance and the  
9            reservations of capacity related to each, which essentially render the service  
10           area as built out. Rule 24-30.432, F.A.C., expressly provides that the  
11           enumerated factors are only some of the factors that we will consider in  
12           determining the used and useful amount, and is not by any means an  
13           exhaustive list. The rule also expressly provides that it does not apply to  
14           reuse projects, pursuant to Section 367.0817(3), F.S., nor investment for  
15           environmental compliance pursuant to Section 367.081(2) (a) 2.c, F.S. The  
16           Utility's post-hearing statement goes on to refer to Chapter 99-395, in which  
17           the Legislature enacted certain sewage requirements for Monroe County  
18           which, in Section 6 of that law, required sewage facilities to go to A WT by  
19           July 1, 2010. In furtherance of that mandate, the Utility points out that  
20           Monroe County secured an agreement from the Utility to convert its  
21           wastewater treatment system to A WT by January 1, 2007, providing that  
22           the Utility is allowed to recapture the costs of its conversion to AWT and  
23           increased operating costs by a resolution of the County Commission. We  
24           agree with the Utility that factors clearly exist, pursuant to Rule 24-30.432,  
25           F.A.C., to find that the Utility's wastewater treatment plant and collection  
26           and reuse systems are all 100 percent used and useful. The record shows

1           that the remaining capacity of the treatment facility and lines have been  
2           committed and contributed towards the provision of service of the 1,500  
3           EDUs that the Utility agreed to serve pursuant to a contract with Monroe  
4           County. Although not all of the potential customers located within the  
5           environmentally sensitive area have connected, it appears that Monroe  
6           County's advance payment for these customers clearly reserves that  
7           remaining capacity. In addition, the record shows that the facility is 100  
8           percent used and useful because the plant is designed and built to provide  
9           reuse and will be an AWT plant, as mandated by Monroe County. Given the  
10          above, we find KWRU's wastewater treatment plant, entire collection  
11          system, and reuse systems are all 100 percent used and useful in providing  
12          service to the customers of the Utility.”

13          All of these factors still exist. The capacity causing the expansion was primarily due to the  
14          need to meet Monroe County’s reservations and the demand expressed by several other  
15          projects. In addition, every property owner is still mandated to connect to KWRU within its  
16          tariff area pursuant to 99-395. The utility is still providing reuse. The existing plant was  
17          converted to AWT by mandate and all of the expansion must meet that requirement,  
18          including the addition of two injection wells to protect the Keys’ environmentally sensitive  
19          area.

20          Consistent with its reasoning in PSC Order PSC-09-0057-FOF-SU, the Commission should  
21          find the utility’s WWTP to be 100% used and useful.

22      **Q.     Does that conclude your rebuttal testimony?**

23      A.     Yes, it does.