BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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

DOCKET NO. 150071-SU

FILED: October 14, 2016

PREHEARING STATEMENT OF THE OFFICE OF PUBLIC COUNSEL

The Citizens of the State of Florida, through the Office of Public Counsel, pursuant to the Order Establishing Procedure in this docket, Order PSC-16-0372-PCO-EI, issued September 15, 2016, and Order PSC-16-0194-PCO-EI issued May 17, 2016 hereby submit this Prehearing Statement.

APPEARANCES:

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On behalf of the Citizens of the State of Florida

1. **WITNESSES:**

Patricia W. Merchant, CPA	Issues 2, 3, 5-17, 19-40 and 42
Andrew T. Woodcock	Issues 6, 8 and 11

2. EXHIBITS:

Witness	Exhibits	Title
Patricia W. Merchant, CPA	PWM-1	Resumé of Patricia W. Merchant
Patricia W. Merchant, CPA	PWM-2	Phase I Accounting Schedules
Patricia W. Merchant, CPA	PWM-3	Phase II Accounting Schedules
Patricia W. Merchant, CPA	PWM-4	OPC Interrogatory 27 – FL Keys Linen 2012 Addendum to Utility Service Agreement
Patricia W. Merchant, CPA	PWM-5	KW Response to Staff Audit Document Request 5 – Pro Forma Expenses
Patricia W. Merchant, CPA	PWM-6	KW 2015 PSC Annual Report
Patricia W. Merchant, CPA	PWM-7	Bankrate.com WSJ Prime Rate of Interest
Patricia W. Merchant, CPA	PWM-8	FKAA Water Fees and Charges
Patricia W. Merchant, CPA	PWM-9	GDU Silver Springs Shores Hearing Transcript
Andrew T. Woodcock	ATW-1	Resume of Andrew T. Woodcock
Andrew T. Woodcock	ATW-2	Used and Useful Calculation
Andrew T. Woodcock	ATW-3	Adjustments to Vacuum Tank Replacement Estimate
Andrew T. Woodcock	ATW-4	Recommendation of Vacuum Tank Rehabilitation Award to Key Largo Wastewater Treatment District

3. STATEMENT OF BASIC POSITION

K W Resorts Utilities Corp. (KWRU or Utility) has the burden of proof to demonstrate it is entitled to its requested rate increase. *See Florida Power Corp v. Cresse*, 413 So. 2d 1187, 1191 (Fla. 1982). In this case, KWRU has not met its burden for all of its requested rate increase. Many of its "wants" are simply not supported by the evidence to be presented in this proceeding. The evidence offered by OPC and Monroe County demonstrates that KWRU is entitled to no more than $1,821,639 for Phase I, based on a 2014 historic test year, and no more than $2,269,892 for Phase II, based on a

2016 pro forma test year.

Two-phased revenue requirement calculation

In order to properly adjudicate this case, the Commission should revisit and update the Phase I and Phase II revenue requirements established by Order No. PSC-16-0123-PAA-SU, issued March 23, 2016 (PAA Order). Separating this case into two Phases was, and still is, the most practical and efficient step to take given the posture of KWRU's case and the limited amount of information presented to the Commission by the Utility during the proposed agency action (PAA) portion of this docket. During the PAA portion, the Commission was not presented with the complete and necessary facts and evidence to establish a pro forma test year for the Phase II revenue requirement, with rate base, capital funding, accurate billing determinants (i.e., customers, bills and gallons, etc.), and appropriate service rates. As a result of the protest by OPC and Monroe County, the Commission will now be provided with the necessary record evidence to establish a 2014 historic test year for Phase I and a 2016 pro forma test year for Phase II.

Phase I revenues and rates

KWRU takes the unsupported position that this Commission does not need to revisit or update the Phase I revenues and rates established by PAA Order; thus, asking the Commission to skip a critical part of its analysis. When establishing PAA Order Phase I revenues and rates, KWRU presented overstated pro forma operations and maintenance (O&M) expenses to the Commission, and the Commission made a reasonable decision based on that limited information. Now, the Commission has the complete and more appropriate facts and evidence and actual 2016 costs upon which to base Phase I revenues and rates, and the Commission should determine what Phase I revenues should have been in order to calculate a refund to KWRU's customers.

Because KWRU knows the PAA Order Phase I rates were based upon factually inadequate and overstated O&M expenses, the Utility is now attempting to confuse the issues and conceal the fact it owes customer refunds for the Phase I rate increase approved by the PAA Order. KWRU only wants the Commission to establish final rates using an outdated and stale 2014 test year in order to avoid any critical examination of the PAA Order Phase I revenues and rates, and paying the refunds it may owe.

Therefore, in order to balance the needs of the customers and utility alike when deciding this matter, this Commission should determine what the Phase I revenue requirement would have been if the Commission had had before it the full record and factual evidence. OPC submits the evidence will demonstrate the KWRU customers are entitled to a refund of Phase I revenues approved in the PAA Order.

Phase II revenues and rates

In addition, KWRU is asking this Commission to establish prospective Phase II revenues and rates (or final rates) to go into effect in 2017 based on a stale and outdated 2014 test year that contains pro forma expenses projected for future years without considering the corresponding revenues and billing determinants for those same future years. There is no dispute that Phase II revenues and rates are being driven by future customer growth which will come online once its proposed 350,000 gallon per day plant expansion is completed. Thus, establishing 2017 prospective rates based on 2014 billing determinants would result in unreasonable and unjust rates given the facts and evidence demonstrating that KWRU will experience significant future growth once the new plant is placed in service. Accordingly, the Commission should update the test year using the facts and evidence provided by the witnesses for OPC and Monroe County.

Updating the test year

This Commission has established pro forma test years for utilities in the past, and should do so again in this case. Further, using stale billing determinates is unreasonable and violates the matching principle. The matching principle, as testified to by County witness Deason, should be applied in this case, and Phase II revenues and rates should be based upon an updated, 2016 pro forma test year. To do otherwise would result in residential and general service rates that are unreasonably high, and allow KWRU to reap a windfall of revenues at the expense of its customers.

Therefore, in order to appropriately balance the interests of the customers and the Utility, OPC and Monroe County assert this Commission should retain the Phase I and II analysis for the purposes of establishing refunds for customers for the Phase I rates approved in the PAA Order and determining prospective revenues and rates for Phase II using a 2016 pro forma test year.

<u>OPC witness Woodcock</u>

With respect to KWRU proposing to replace its vacuum tank, OPC witness Woodcock correctly assessed that KWRU's estimated cost for replacing this tank was significantly overstated. However, OPC remains concerned that the total estimated cost of the 350,000 gpd wastewater treatment plant expansion project has continued to balloon to over $5.1 million. Even with adding the cost of the vacuum tank to the overall cost of the project, there are still additional costs which are unexplained and unsupported. OPC submits the Commission should carefully examine these costs once the plant comes online and consider a true-up mechanism to reflect the true and accurate costs that should be borne by customers. In addition, witness Woodcock provides evidence that the 350,000 gpd expansion should not be considered 100% used and useful as asserted by KWRU.

<u>OPC witness Merchant</u>

OPC witness Merchant testifies as to all the adjustments that are necessary for establishing Phase I and Phase II rates, including correcting the 2014 test year and providing evidentiary support for a 2016 pro forma test year. She also recommends a reasonable Phase I revenue requirement and a reasonable Phase II revenue requirement and service rates based upon the updated test year.

In conclusion, the Commission should reject KWRU's request to set final rates based on a stale, outdated, and unreasonable 2014 test year, and should instead establish Phase II final rates, using the matching principle, and a 2016 pro forma test year.

4. <u>ISSUES AND POSITIONS</u>

<u>LEGAL ISSUES</u>

<u>ISSUE 1</u>: Contested Does the Commission have the authority to update the test year requested by KWRU approved by the Commission Chairman to set rates representative of the period in which new growth-related plant will be placed into service and in which expenses associated with such new plant will be incurred?

OPC: Yes. *See e.g.,* Order No. 15725, issued February 21, 1986 (Martin Downs), and Order No. PSC-01-2511-PAA-WS, issued December 24, 2001 (Burkim Enterprises). In Martin Downs, the Commission stated: "Test year data must be adjusted to properly reflect conditions <u>*in the future period*</u> for which rates are being fixed." (emphasis added). In Burkim Enterprises, the Commission used a projected test year because the utility was growing at an exceptionally high rate per year, and found "that a projected test year is appropriate in this case to better match rate base with customer base on a going forward basis, and allow the utility an opportunity to earn a fair return on its investments." In KWRU, it is a known and measurable fact that there will be substantial customer growth once the 350,000 gpd plant expansion goes into service. Therefore, the Commission has the authority to update the approved test year in order to assure that the rates properly reflect the conditions facing KWRU in 2017 and beyond, to appropriately invoke the matching principle to include relevant expenses and revenues, and it should exercise that authority in this proceeding.

TEST YEAR

ISSUE 2: Is a two-phased revenue requirement calculation appropriate in this docket?

OPC: Yes, the Commission in its PAA Order appropriately implemented a two-phased rate increase. The Commission should establish a Phase I rate increase to recognize the revenue requirement for the time frame between the PAA Phase I rates were implemented until the plant expansion is placed into service. A Phase II revenue requirement should be determined to set rates on a prospective basis after the new plant expansion is in-service. This two-phased approach will recognize a proper matching of revenues and expenses for the time that the two time periods that rates will be in place. If only one revenue requirement were to be implemented, the inclusion of plant and higher projected expenses would not match the historical timeframe when before the plant becomes operational and serving customers. To include the requested growth-related increases, without the related corresponding offsets, will immediately overstate the revenues and earnings received by the Utility when the new rates are implemented, violate the test year matching principle, and result in unfair and unjust rates pursuant to Section 367.081, Florida Statutes. (Merchant)

ISSUE 3: What is the appropriate test year for establishing rates for KWRU?

A. For Phase I, if applicable

OPC: The appropriate test year for Phase I rates is the historical year ending December 31, 2014, with appropriate adjustments to recognize the level of expenses needed to implement AWT. (Merchant)

B. For Phase II, if applicable

OPC: The historical year ending December 31, 2014 is not the appropriate test year for setting Phase II or final rates in this proceeding. Consistent with Section 367.081, Florida Statutes, the appropriate test year should provide a reasonable match between the utility investment in used and useful plant in service, capital costs, operating revenues, operating expenses, and customer billing determinants so that the rates established are fair, just, compensatory and not unduly discriminatory when the new rates are placed into service. The Utility maintains that an historical test year with pro forma adjustments for projected growth related plant and expenses is representative; however, it has failed to include any offsetting entries that would correspond and match its projected increases. A projected 2017 test year, a year out from the date the plant goes into service, would be the most representative for the first year, yet the Utility chose to not provide the Commission or intervenors the level of detail required. An alternative pro forma test year ended December 31, 2016, with proper adjustments should be utilized, which will be much more representative than using an historic 2014 test year with "cherry picking" adjustments that only increase the expense items and rates. The Commission has in several cases, very similar to the KWRU case, required an historical test year to be updated and projected forward when the utility was growing at an exceptionally high rate per year. *See e.g.,* Order No. 15725, issued February 21, 1986

(Martin Downs), and Order No. PSC-01-2511-PAA-WS, issued December 24, 2001 (Burkim Enterprises). (Merchant)

QUALITY OF SERVICE

ISSUE 4: Is the quality of service provided by KWRU satisfactory?

OPC: Customers testified at the December customer meeting about issues with the Utility's quality of service. Customers will testify about the quality of service at the hearing in November. Their testimony, in part, will demonstrate whether the quality of service is satisfactory. The determination of quality of service will be made after all the evidence has been adduced at hearing.

RATE BASE

ISSUE 5: What adjustments, if any, should be made to account for the audit adjustments to rate base in each of Staff's Audit Findings 1 through 7?

OPC: The following adjustments should be made based on adjusted audit findings:

- Plant in service should be reduced by $817,240 based on the Audit Finding 1.
- Construction work in progress should be increased by $303,135 for the December 31, 2014 Phase I test year based on the Audit Finding 2.
- Land should be decreased by $923 and O&M expenses (contractual services-other) should be increased by $1,200 for survey fees based on the Audit Finding 3, and miscellaneous deferred debits should be increased by $4,200 for the unamortized balance.
- CIAC should be decreased by $297,120, Accumulated amortization of CIAC should be decreased by $87,153, and Amortization of CIAC should be decreased by $14,003 based on Audit Finding 4.

- Accumulated depreciation should be and depreciation expense should be decreased by $5,489, based on Audit Finding 5.
- The only adjustment to miscellaneous debits related to Audit Finding 6 that should be made is the $4,200 increase related to unamortized survey fees. No allowance should be made for deferred accounting fees as these costs should be disallowed. Also, any component of the deferred litigation fees should be added to CWIP in Phase I rates and should be capitalized to plant in service for Phase II.
- Audit Finding 7 adjustments should be addressed in Issue 12 regarding working capital.

  (Merchant)

<u>ISSUE 6</u>: What is the appropriate amount of plant in service to be used in setting rates?

A. For Phase I, if applicable

OPC: The amount of plant in service for the Phase I rates should be $11,108,464, which is the amount of plant in service that was approved in the PAA Order in this docket. This reflects the adjustments made by the Commission to reflect the agreed-upon audit reductions of $817,240 from Audit Finding 1, and to remove the Utility's requested pro forma plant of $3,574,468, for a total decrease to plant of $4,391,708. It is inappropriate to include any pro forma plant for growth-related plant in Phase I rates that will provide service to future customers more than two years beyond the historical test year. It is also inappropriate to include any pro forma plant for the vacuum tank replacement in Phase I rates as it will not be placed into service until after 24 months from the end of 2014, the historical test year. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate amount of plant in service for Phase II rates should be $15,182,830. First, adjustments are appropriate to reflect the agreed-upon audit reductions of

$817,240 from Audit Finding 1. Second, the average balance of adjusted 2014 plant included in rate base should be increased by $88,027 to reflect the year-end balance approved by the Commission in its PAA order. Third, the cost of the wastewater treatment plant expansion should be increased by $1,202,968 to reflect the plant expansion contracted cost of $4.3 million and the $477,436 adjustment to capitalize the legal fees incurred to litigate the Utility's construction permit for the wastewater treatment plant (WWTP) expansion. Fourth, the new vacuum tank plant addition of $474,552 less the retirement entry of $355,914 should be included in Phase II rates. Finally, land should be decreased by $6,000 as addressed in Audit Finding 3. (Merchant, Woodcock)

ISSUE 7: What is the appropriate amount of accumulated depreciation to be used in setting rates?

A. For Phase I, if applicable

OPC: Accumulated Depreciation for Phase I should be $5,830,802, which reflects a decrease of $198,625 for Phase I rates. Accumulated depreciation should be increased to reflect the net adjustment of the PAA agreed-upon audit adjustments of $2,040 recommended by Audit Finding 2. Second, it is appropriate to remove the Utility's pro forma plant to accumulated depreciation of $196,281 related to the wastewater treatment plant expansion pro forma adjustment. No inclusion of any pro forma plant for the plant expansion or the vacuum tank replacement should be allowed in Phase I rates. Lastly, the Utility's adjustment to annualize the 2014 depreciation expense of $4,384 should be disallowed. Allowing the Utility to make a one-sided adjustment to accumulated depreciation and depreciation expense ignores the impact of the annualization of amortization of CIAC. This violation of the test year matching concept, as well as the statutory violation of not including test year amortization of CIAC on contributed plant, should be disallowed. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate amount of accumulated depreciation should be $6,876,849 for Phase II rates. Several adjustments are appropriate. First, accumulated depreciation should be increased by $2,040 for the agreed-upon adjustment for Audit Finding 5. Accumulated depreciation should also be increased to update the test year to 2016, which is a more representative period that will be consistent with and closer to the timeframe when the treatment plant expansion will be placed into service. Thus, average to year-end adjustment to accumulated depreciation should be increased by $183,207, which is net of the Company's adjustment to reflect year-end accumulated depreciation for the 2014 test year plant additions. Next using the 2014 year-end Depreciation Expense of $462,339, accumulated depreciation should be increased by $924,677 to reflect the 2015 and 2016 additions. Fourth, accumulated depreciation should be increased by $67,026 and $26,385, respectively related to the pro forma cost of the wastewater treatment plant expansion costs and the vacuum tank addition, along with the corresponding retirement. The total adjustments to accumulated depreciation for Phase II rates should be an increase of $847,422. (Merchant)

ISSUE 8: What is the appropriate amount of CIAC to be used in determining the rate base that is used for setting rates?

A. For Phase I, if applicable

OPC: CIAC for Phase I rates should be $9,649,877. CIAC should be decreased to reflect the net adjustment of the PAA agreed-upon audit adjustments of $297,120 recommended by Audit Finding 4. No further updates to CIAC to reflect the amount of CIAC collected after December 31, 2014, should be made for the Phase I revenue requirement. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate amount of CIAC for Phase II rates should be $10,717,289. The first adjustment relates to the agreed-upon adjustment to decrease CIAC by $297,120 related to Audit Finding 5. Second, it is proper to update the test year to 2016, which is a more representative period that will be consistent with the timeframe when the treatment plant will be placed into service. Consistent with OPC's adjustments to plant and accumulated depreciation, the 2014 average balance of CIAC from the PAA Order should be increased by $136,012 to reflect the year-end balance. Next, before any future plant expansion or pro forma plant is allowed, it is critical and appropriate to include the $489,469 in actual 2015 and January through May 2016 CIAC that the Company collected. If the Commission allows the new rates to be set without the consideration of the CIAC and the expected customer growth, then the rates established will immediately provide excess earnings to the Utility at a substantial cost to the existing and future customers and will also violate the matching principle. Further, it is appropriate to project CIAC that will be collected in the first few months after the plant is placed into service, based on OPC witness Woodcock's recommended growth allowance of 5% per year and his annual growth in the number of ERCs of 222. Thus, the estimated the additional level of ERCs will be added in the first year of operations. The Utility pre-collected 58.48 (48.88 plus estimated 9.60) future ERCs of CIAC in 2016. Thus, it is appropriate to add the additional 163.68 ERCs at $2,700 per ERC to equal the total number of ERCs that are expected in the first year for an increase to CIAC of $441,931. These adjustments reflect the projected amount of CIAC that will added in the first year the growth-related plant will be placed into service. If the Commission allows the project plant and expenses associated with growth and does not include the projected CIAC, the rates set will allow a return on contributed plant. (Merchant, Woodcock)

ISSUE 9: What is the appropriate amount of accumulated amortization of CIAC to be used for setting rates?

A. For Phase I, if applicable

OPC: Accumulated Amortization of CIAC should be decreased to reflect the net adjustment of the PAA agreed-upon audit adjustments of $81,153 recommended by Audit Finding 4, for a total balance of $3,014,941 for Phase I rates. Since it is not appropriate to update CIAC for collections after December 31, 2014, no additional adjustments to Accumulated Amortization of CIAC is appropriate for Phase I rates. (Merchant)

B. For Phase II, if applicable

OPC: Accumulated Amortization of CIAC (AA-CIAC) should be $3,945,225 for Phase II rates. Using an amortization rate of 3%, adjustments are necessary to be consistent with the adjustments made to CIAC. First, AA-CIAC should be decreased by $81,153 for Audit Finding 4. Second, AA-CIAC by $204,033 should be increased to reflect the 2014 year-end balance. Third, two years of 2014 year-end amortization expense of CIAC of $682,928 should be added for 2015 and 2016. Fourth, consistent with CIAC, AA- CIAC should be increased by $27,903 to reflect the addition of actual CIAC for 2015 and January through May 2016. Lastly, I have added AA-CIAC on the projected additions to CIAC for the 2016 pro forma test year of $15,421. For all of these adjustments, I have utilized the amortization rate used in the PAA Order of 3.49%. Based on these adjustments, the Phase II amount of Accumulated Amortization of CIAC should be $3,945,225.First, I have included the adjustment to reflect the agreed-upon adjustment to decrease Accumulated Amortization of CIAC of $81,153 from

Audit Finding 4, consistent with OPC witness Merchant's adjustment for Phase I rates. Second, based on OPC witness Merchant's recommended adjustments to CIAC, it is appropriate to increase Accumulated Amortization of CIAC by $204,033 to reflect the 2014 year-end balance. Third, consistent with OPC witness Merchant's adjustment to accumulated depreciation, I have added two years of the 2014 year-end amortization expense of CIAC of $682,928 to reflect the amount that would have been added in for 2015 and 2016. Fourth, consistent with OPC witness Merchant's adjustments to CIAC, I increased Accumulated Amortization of CIAC by $27,903 to reflect the addition of actual CIAC additions for 2015 and January through May 2016. Lastly, I have added Accumulated Amortization of CIAC on the projected additions to CIAC for the 2016 pro forma test year of $15,421. (Merchant)

ISSUE 10: What is the appropriate amount of construction work in progress (CWIP) to be used for setting rates?

A. For Phase I, if applicable

OPC: CWIP for Phase I rates should be $780,571. Adjustments for Audit finding 2 create a CWIP related to construction costs for the wastewater plant expansion project of $158,151 in 2014, and $144,984 in 2015 for a total of $303,135. Also, the 2015 balance of the Last Stand Legal Fees should be recorded in CWIP until the new wastewater treatment plant is placed into service. CWIP should be increased by $477,436, until the WWTP expansion is placed into service. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate amount of CWIP for Phase II rates should be zero to reflect that the construction costs have been capitalized into plant. (Merchant)

ISSUE 11: What is the used and useful (U&U) percentage of the Utility's wastewater treatment plant after the treatment plant expansion is placed into service?

OPC: After projecting the increased amount of consumption to reflect 2016 consumption, the appropriate non-used and useful percentage should be 25%. This should be applied to the recommended balance of plant, accumulated depreciation, depreciation expense and property tax expense as shown on Exhibit PWM-3, Schedule 1-D. The appropriate reductions to rate base is $1,632,646 (plant in service of $2,429,995 less accumulated depreciation of $797,349). Corresponding reductions to depreciation expense of $130,954 and to property taxes of $16,177 are appropriate. (Woodcock, Merchant)

ISSUE 12: What is the appropriate working capital allowance?

A. For Phase I, if applicable

OPC: The appropriate amount of working capital for Phase I rates should be $328,976. Adjustments to the following working capital accounts are necessary:

A) Cash: 1) remove $126,930 associated with an escrow account from capacity fees collected for the vacuum expansion project closed in March 2015; 2) remove $141,828 for a "Customer Escrow Account," related to customer deposits; 3) remove an unused capital operating account equivalent to temporary cash investment with a balance of $375,840; and 4) remove a the 13-month average balance $115,643 in cash capital operating account related to an account funded by a single transfer in May 2014. This decrease of $615,687 results in a cash balance of $261,602.

B) Accounts Receivable: Per Audit Finding 7, 1) Accounts Receivable-Other should be increased by $40,067 to add the cash clearing account for service availability and other customer receivables and extraordinary income corrections; and 2) Miscellaneous

Current & Accrued Assets which should be reduced by $13,422 to remove utility deposits. The net adjustment to working capital is an increase of $26,645.

C) Deferred Debits-Other:

1) Per Audit Finding 3, deferred debits should be increased by $4,200 for the unamortized balance of deferred survey fees.

2) No amount of deferred debits should be included related to accounting fees the Utility incurred to restate its annual reports. See OPC's position on Issue 27.

3) Litigation fees for plant expansion: No inclusion of the balance of litigation fees related to the wastewater treatment plant expansion should be included in working capital as those are included in CWIP for Phase I and capitalized into plant for Phase II. See Issue 28.

D) Deferred Debits-Rate Case Expense: One half of the amount of rate case expense approved by the Commission should be allowed as a deferred debit. For purposes of OPC's testimony, $76,011 was included as unamortized rate case expense in the PAA Order. This amount should be adjusted based on the Commission's final decision.

(Merchant)

B. For Phase II, if applicable

OPC: The appropriate amount of working capital for Phase II rates should be $328,976. (Merchant)

ISSUE 13: What is the appropriate rate base? (Fall-out)

A. For Phase I, if applicable

OPC: The appropriate rate base for Phase I should be $127,273. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate rate base for Phase II should be $604,323. (Merchant)

COST OF CAPITAL AND CAPITAL STRUCTURE

ISSUE 14: What is the appropriate capital structure to be used in setting rates?

A. For Phase I, if applicable

OPC: The Utility's actual 2014 capital structure consisted of $395,434 of debt to BB&T at 4% (variable rate of prime plus 0.75%); $852,903 debt at 6% (fixed) to WS Utilities, an affiliate of KWRU; $162,972 in customer deposits at 2%; a negative equity balance of $276,537 with a $3.5 million pro forma increase to equity to fund the WWTP expansion. For Phase I rates, the debt for the affiliate debt should be equal to the arms-length debt to BB&T, the negative equity balance should be zero, and the pro forma equity adjustment should be disallowed. (Merchant)

B. For Phase II, if applicable

OPC: For Phase II rates, in addition to the adjustments made to the capital structure for Phase I rates, the Utility's pro forma adjustment to equity should be considered debt until the Utility can demonstrate that all of the pro forma adjustments will infused as equity. The Utility's last minute equity infusions made in May, June and August, 2016, are questionable and, if allowed, should offset the actual negative equity balance on the Utility's books. As of August 2016, the Utility's negative equity balance was $1,051,663 and its reported equity infusions (shareholder contributions) totaled $2,041,903. At a minimum, the only equity that should be allowed should be netted against the negative retained earnings balance, or a net equity balance of $989,240. Also, the Utility refinanced its debt to BB&T on July 15, 2016. In its refinancing, the

Utility retired Note 5 balance of $302,053 and received new Note 7 for $1 million. No interest rate information is available at this time. Until such time that the Utility produces documents demonstrating that it has infused any more equity as opposed to debt into its capital structure, debt should be used to support the cost of any pro forma plant. (Merchant)

ISSUE 15: What is the appropriate return on equity?

A. For Phase I, if applicable

OPC Because the negative balance of equity has been set to zero, the ROE for Phase I rates should be 11.16%, with an allowed range of plus or minus 100 basis points. (Merchant)

B. For Phase II, if applicable

OPC: Because the negative balance of equity has been set to zero and debt has been increased to fund the projected plant additions, the ROE for Phase II rates should be 11.16%, with an allowed range of plus or minus 100 basis points. If consideration is given to any funds infused into the capital structure after 2014, offsets should be made to recognize that any equity infusions first offset negative equity and CIAC additions and new debt issuances are also funding the projected plant additions. If the Commission allows some or all of the Utility's pro forma adjustment to increase equity above zero related to the pro forma plant additions, then it is appropriate to use the Commission's leverage formula approved in Order No. PSC-15-0259-PAA-WS. (Merchant)

ISSUE 16: What is the appropriate cost of long-term debt?

A. For Phase I, if applicable

OPC: The appropriate cost of debt for Phase I should be 4% for both the BB&T and the WS Utilities debt. The Commission should also consider the impact of the retirement of the old note and issuance of a new note from BB&T on July 15, 2016. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate cost of debt for Phase II should be 4.25% for both the BB&T and the WS Utilities debt. (Merchant)

ISSUE 17: What is the appropriate weighted average cost of capital based on the proper components, amounts, and cost rates associated with the capital structure for the test year period? (Fall-out)

A. For Phase I, if applicable

OPC: The appropriate overall rate of return for Phase I rates should be 3.39%. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate overall rate of return for Phase II rates should be 3.53%. (Merchant)

NET OPERATING INCOME

ISSUE 18: Should the members of Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores) be classified as Residential customers or a General Service customer?

OPC: The Commission should investigate this issue to determine whether Harbor Shores is a general service customer or not, and what if any, remedy is appropriate.

ISSUE 19: What is the appropriate bills and gallons to use to establish test year revenues and rates?

A. For Phase I, if applicable

OPC: It is appropriate to use the PAA Order billing determinants approved in the PAA Order for Phase I rates. Although it is evident that the 2015 and 2016 revenues and billing determinants were higher than those in the 2014 test year, OPC's revenue requirement calculations based on the PAA Order billing determinants are reasonable for setting Phase I rates. (Merchant)

B. For Phase II, if applicable

OPC: Consistent with OPC's adjustments to Phase II test year revenues and to comply with the matching principle, the bills and gallons used to calculate the rates should be increased to reflect the projected level of customers that will be online for the first year of operation of the wastewater treatment expansion. The actual increase in 2015 revenues should be used to estimate the number of bills and gallons by customer class as the Utility has not provided the restated number of 2015 customers and gallons consistent with the method used by the Commission in the PAA Order. To determine the appropriate 2016 billing determinants, the 2015 levels should be escalated conservatively by 5%, consistent with OPC witness Woodcock's used and useful projection. OPC's calculations for the 2016 level of bills and gallons are reflected on Exhibit PWM-3, Schedule 4-B. (Merchant)

ISSUE 20: What is the appropriate amount of miscellaneous revenues to be included in test year revenues and rates?

A. For Phase I, if applicable

OPC: The appropriate amount of miscellaneous revenues for Phase I rates should be $72,619. (Merchant)

For Phase II, if applicable

OPC: The appropriate amount of miscellaneous revenues for Phase II rates should be $86,421 based on a projected 2016 level. The projection should use the actual 2015 miscellaneous revenues of $104,651 from the Utility's General Ledger as of December

31, 2015. First, it is appropriate to remove the $19,500 received for reuse testing from the MCDC from 2015 miscellaneous revenues, as that tariffed rate should be discontinued and included in the reuse rate. Second, the amount of the MCDC Lift Station Cleaning Income should match the annual income of $17,544 ($1,462*12 months) tariff rate approved in the PAA Order, a decrease of $2,081. Then the remaining miscellaneous service revenue accounts should be escalated by 5%, an increase of $3,276, which is consistent with the other escalation factors used in OPC's pro forma 2016 Phase II rate projections. The net result of OPC's 2016 adjustments increase the adjusted miscellaneous revenues by $13,802. (Merchant)

<u>ISSUE 21</u>: What is the appropriate amount of test year revenues for KWRU's wastewater system? (Fall-out)

A. For Phase I, if applicable

OPC: The test year revenues for Phase I before any revenue increase should be $1,534,799. (Merchant)

B. For Phase II, if applicable

OPC: The test year revenues for Phase II before any revenue increase should be $1,701,630. (Merchant)

<u>ISSUE 22</u>: What adjustments, if any, should be made to account for the audit adjustments in each of Staff's Audit Findings 3, 4, 5, 10 and 11 to operating expenses?

OPC: The following expense adjustments should be made based on adjusted audit findings:

- O&M expenses (contractual services-other) should be increased by $1,200 for survey fees based on the Staff Audit Finding 3.

- Amortization of CIAC should be decreased by $14,003 based on Staff Audit Finding 4.
- Depreciation expense should be decreased by $5,489, based on Staff Audit Finding 5.
- No additional expense adjustments related to Audit Finding 6 should be made. Audit Finding 3 adjustment above relates to the amortization of land survey fees. No amortization adjustment is necessary for deferred accounting fees as these costs should be disallowed. Also, any component of the deferred litigation fees should be added to CWIP in Phase I rates and should be capitalized to plant in service for Phase II.
- O&M expenses should be decreased by $4,512, based on Staff Audit Finding 10 and $6,276, based on Staff Audit Finding 11.

  (Merchant)

<u>ISSUE 23</u>: What are the appropriate annual levels of O&M expenses for implementing advanced wastewater treatment (AWT)?

A. For Phase I, if applicable

OPC: In the Phase I revenue requirement calculation, the Commission allowed the full level of pro forma O&M expenses to implement AWT for the existing plant and the for a full year after the new plant expansion is placed into service. Since the Utility did not implement AWT on its existing plant until January 1, 2016, the historical test year does not include sufficient actual levels of costs to implement AWT on the existing plant. While OPC agrees that some adjustment is necessary to the historic test year, Phase I O&M expenses to allow for AWT implementation should be no more than the actual annualized levels incurred for 2016. The Utility provided the January to April 2016 level of operating expenses and those expenses totaled $237,762. The majority of the expense accounts should be multiplied by 3 to reflect a full year of expenses. For chemicals, purchased power and sludge hauling expenses, the first four months of 2016 should be multiplied by 3.25 to recognize that the flows generally increase in the last quarter of the year. Specific adjustments should then be made to reduce O&M expenses by: 1) $9,588 (Audit Findings 3, 10 and 11), 2) $60,000 for the management fee for affiliate services not necessary or supported, 3) $12,350 accounting and $653 engineering fees removed in the PAA Order, 4) $44,785 overstated general liability insurance. Lastly, O&M expenses should be increased by $38,005 to add back in rate case expense approved in the PAA Order. The net adjustment to annualize the Phase I O&M expenses is a decrease of $301,461. (Merchant)

B. For Phase II, if applicable

OPC: The appropriate amount of Phase II O&M expenses should be $1,809,082. Adjustments are appropriate to reflect the agreed-upon audit adjustments, contractual services-accounting, contractual services-engineering, management fees, and rate case expense for Phase II O&M expenses. The amortization of legal fees for the permit litigation fees incurred which should be capitalized, and the amortization of accounting fees to correct the Utility's books and records for 2007-2011, which should be disallowed as unreasonable and costs related to prior periods. Additionally, the reduction to pro forma expenses made by the Commission in the PAA Order of $10,028 is appropriate for Phase II rates. A further reduction of $29,223 to the Utility's requested pro forma expenses should be made to Sludge Removal, Purchased Power, Chemicals, and Material and Supplies Expenses to reflect consumption levels recommended by OPC witness Woodcock's engineering analysis and growth for the first year that the new plant expansion will be placed into service. Lastly, the additional $245,501 in expense adjustments included in Utility witness Swain's direct testimony should be disallowed. These expenses are in addition to the more than $840,000 in pro forma adjustments requested in the MFRs and were not included in KWRU's original rate case filing. The Utility has failed to identify any known and measurable changes that have occurred subsequent to the test year, which would require these additional costs to be included in the revenue requirement. (Merchant)

ISSUE 24: What adjustments, if any, should be made to pro forma contractual services accounting and engineering fees?

OPC: The Utility's $12,350 pro forma increase for additional accounting services, not related to the correction of its books and records, should be disallowed. The additional work performed in the test year did not warrant an adjustment to increase accounting fees on a going-forward basis and the Utility indicated that the increase in wastewater treated would not increase the prospective amount of accounting transactions relative to the amount of flows received. Contractual services-engineering expense should also be decreased by $653 to correct expenses for an invoice that was capitalized. (Merchant)

ISSUE 25: What adjustment, if any, should be made to KWRU's test year expenses for management fees charged by Green Fairways?

OPC: Consistent with the decision in the PAA Order, contractual services-management expense should be decreased by $60,000 for both Phase I and Phase II rates for an affiliate transaction that is not necessary for the provision of regulated utility service. The majority of the management duties provided by Green Fairways is duplicative of the in-house officers and management the Utility has hired since its last rate case. Further, the services provided by the affiliate primarily benefit the Utility's shareholder and the affiliate does not provide true, independent third party oversight over the Utility. (Merchant)

<u>ISSUE 26</u>: What is the appropriate amount of rate case expense?

OPC: The Commission approved rate case expense of $152,021. Amortized over 4 years, this equates to an annual expense of $38,005. The Utility's requested rate case expense should be increased by $6,805 ($38,005 - $31,200). The final amount should be fully supported, not duplicative, and reasonable. Adjustments should be made to remove duplicative and excessive legal fees should be reduced to remove the filing fees, costs incurred to submit and address deficiencies in the MFRs, and a reasonable estimate to complete. It is not appropriate for the Utility to seek reimbursement from its ratepayers to have two attorneys reviewing the same work product and attending the same meetings. Further, it is the Utility's burden to show that the legal fees incurred are not duplicative. Customers should not pay double the rate case expense to have two attorneys review a data request, a discovery response, attend a conference call with staff, attend the prehearing conference, or pay for hours associated with "researching" different Commission functions such as the PAA process. Accounting fees should be reduced to remove duplicate filing costs to correct MFR deficiencies, to reflect a reasonable level of estimated hours to complete the case, and to remove duplicative, unsupported, and other accounting invoices not related to rate case expense. The Commission should carefully review the accounting rate case expense invoices to determine whether the Utility's inadequate record keeping has increased the amount of accounting work performed to prepare the MFRs, address audit findings and respond to discovery, and any rate case expense related to bringing the

Utility's books into compliance included in rate case expense should be disallowed. Adjustments are also appropriate to reflect a reasonable cost for customer notices, printing and shipping, and rate case travel expenses. (Merchant)

ISSUE 27: What is the appropriate amount and accounting treatment of accounting fees incurred by the utility to restate its 2007 to 2012 Annual Reports?

OPC: The $11,678 in amortization for accounting costs related to restating the Utility's books and records subsequent to the last rate case decision and prior to filing this current rate case are unreasonable and should be disallowed. KWRU fails to explain how restating the Annual Reports provided any future benefit to KWRU or its customers, nor were any of the corrected annual reports filed with the Commission. Further, the Utility failed to make the Commission-ordered adjustments from the last rate case, and subsequently incurred $63,056 in 2014 to bring its records into compliance with the Commission's Order and the accounting requirements of the NARUC Uniform System of Accounts. Given the substantial number of Staff audit adjustments in this case, the detailed accounting analysis was not sufficient to properly correct the Utility's books for accounting and ratemaking purposes. This extra expense for outside accounting services is not a cost that is reasonable or prudent as the books and records should have been correctly maintained. The ratepayers should not pay ***in future rates*** for costs to repair the Utility's records when that should have been incurred annually since the last rate case. (Merchant)

ISSUE 28: What is the appropriate amount and accounting treatment of fees associated with the legal challenge of KWRU's FDEP Permit Numbers FLA014951-012-DWIP, 18490-

0202, and 18490-021 for rate-setting purposes?

A. For Phase I, if applicable

OPC: In its filing, the Utility requested total fees of $519,585 to be amortized over 5 years for an annual amortization expense of $103,917. The Utility agreed that the litigation costs should be decreased by $42,157 to remove unsupported legal fees (Audit Finding 16). Thus, the balance of total litigation fees should be $477,436. These costs were incurred directly by KWRU to obtain permission from DEP to build KWRU's treatment plant expansion. While the title of the permit was labeled as an operating and construction permit, the permit for the existing plant had two more years before it expired. This permit, along with the two permits to build two additional shallow injection wells, were necessary only for the fact that the utility wanted and needed to expand its capacity, and the legal challenge impact on the existing operations treatment plant was minimal if at all. These legal fees, defending the plant expansion needed for future customer growth, clearly belong with the capital costs associated with the plant expansion and should be recovered over the life of the plant, as required by the NARUC Uniform System of Accounts (USOA). They should not be considered non-recurring expenses for renewing a normal operating permit. Since the wastewater treatment plant is not in service, the auditor's adjusted cost of the construction permit legal and consulting fees of $477,436 should be recorded in CWIP for the Phase I rates. The Utility's requested deferred debit balance of $467,625 for the legal and consulting fees should be removed from Working Capital and test year O&M Expenses should be reduced by the Utility's requested $103,917 in amortization. (Merchant)

B. For Phase II, if applicable

OPC: For Phase II rates, $477,436 should be added to Account 380-Wastewater Treatment & Disposal Plant. The Utility's requested deferred debit balance of $467,625 for the legal and consulting fees should be removed from Working Capital and test year O&M Expenses should be reduced by the Utility's requested $103,917 in amortization. (Merchant)

ISSUE 29: What is the appropriate amount of depreciation expense to be used in setting rates?

A. For Phase I, if applicable

OPC: Net depreciation expense should be $104,511 for Phase I rates. Adjustments are appropriate to increase amortization of CIAC by $14,003 (Audit Finding 4) and decrease depreciation expense by $5,489 (Audit Finding 5). Also, the pro forma depreciation expense for the wastewater treatment plant expansion should be reduced by $196,281 and the Utility's adjustment to reflect the year-end annualization of depreciation expense should be removed, a reduction of $4,384. (Merchant)

B. For Phase II, if applicable

OPC: The net depreciation expense for Phase II rates is 224,316, which is a net decrease of $72,346. Adjustments are appropriate to increase amortization of CIAC by $14,003 (Audit Finding 4) and decrease depreciation expense by $5,489 (Audit Finding 5). Third, the 2014 depreciation expense should be increased by $13,718 to reflect the year-end balance. Fourth, depreciation expense should be increased by $67,026 to reflect the additional WWTP expansion projected costs including the capitalized permit litigation fees. The fifth and sixth adjustments relate to the vacuum tank depreciation expense and the adjustment to remove the related retirement, an increase of $26,385 and a decrease of $19,789, respectively. Depreciation expense should also be reduced by $130,954 based on OPC's 25% non-used and useful percentage. Lastly, consistent with the adjustments to CIAC, amortization of CIAC should be increased by $4,746 to reflect a year-end balance, amortization of $17,079 should be add for the 2015 and 2016 actual additions to CIAC, and amortization should be increased by $15,421 on the additional 2016 CIAC projected to be collected during the first year of operation of the WWTP expansion. (Merchant)

ISSUE 30: What is the appropriate amount of taxes other than income to be used in setting rates? (Fall-out)

A. For Phase I, if applicable

OPC: For Phase I Rates, the adjusted 2014 balance of taxes other than income should be $153,029, resulting in a net decrease of $92,878 to the Utility's requested balance. Adjustments are appropriate to remove the $62,863 of regulatory assessment fees on OPC's calculated test year revenue adjustment. Next payroll taxes should be increased by $5,682to reflect the annualization of payroll taxes consistent with the method that used to adjust Phase I salaries for AWT. Last, the Utility's requested pro forma adjustment to property taxes of $35,696 on the pro forma plant should be removed. (Merchant)

B. For Phase II, if applicable

OPC: For Phase II Rates, the total 2016 pro forma test year taxes other than income should be $189,605. This is a decrease of $56,302 to the Utility's requested balance. Adjustments are appropriate to remove the $55,356 of regulatory assessment fees on OPC's calculated test year revenue adjustment. Second, payroll taxes should be reduced by $1,875, which was made in the PAA Order, as OPC concurs with the pro forma level of salaries the Commission allowed. Third, property taxes should be increased by $13,355 to reflect the adjusted pro forma plant included for Phase II rates. Last, property taxes should be reduced by $16,177 related to non-used and useful plant. (Merchant)

REVENUE REQUIREMENTS

ISSUE 31: What is the appropriate revenue requirement? (Fall-out)

A. For Phase I, if applicable

OPC: Based on OPC's adjustments to the Phase I rate base, cost of capital and operating expenses, the appropriate revenue requirement for Phase I rates should be $1,821,639. This represents an increase of $286,840, or 18.69%, to adjusted 2014 test year revenues. (Merchant)

B. For Phase II, if applicable

OPC: Based on OPC's adjustments to the Phase II rate base, cost of capital and operating expenses, the appropriate revenue requirement for Phase II rates should be $2,269,893. This represents an increase of $568,263, or 33.40%, to adjusted 2016 pro forma test year revenues. Further, it is inappropriate for this large Utility, through its testimony, to seek a rate increase that exceeds its requested revenues in its original petition by more than 413,000. Other than the treatment plant expansion and vacuum tank replacement, the other pro forma adjustments are unsupported. Nor has the Utility provided any notice to its customers that it has requested higher revenues, and thus, rates higher than those that were included in the official customer notice of the case.

Any revenue increase above the original request should be completely denied, consistent with the Commission's long standing practice, especially if the Commission determines that the Utility failed to comply with the customer notice requirements. (Merchant)

RATES AND RATE STRUCTURE

ISSUE 32: What are the appropriate rate structures and rates for KWRU's wastewater system?

OPC: The PAA Order change to the base facility charge and gallonage charge allocation of 40/60 are reasonable for this utility. The Commission's restatement/correction of the test year bills and gallons by meter size is also appropriate. I further concur that a full investigation should be made to determine that the Utility has correctly implemented the changes made to bill its customers by the appropriate class and meter size as well as calculate refunds for customers who were improperly billed at a non-tariffed rate. As addressed in Issue 19, the Phase II billing determinants should be escalated to project the expected revenues from new customers that have been added since the end of 2014 and which are expected to be added after the plant expansion is placed into service. For Phase I rates, OPC calculates a $25.02 base facility charge and a $4.15 gallonage charge for residential customers, which equates to a $41.62 monthly bill with 4,000 gallons of consumption. For Phase II rates, OPC calculates a $28.06 base facility charge and a $4.65gallonage charge for residential customers, which equates to a $46.66 with 4,000 gallons of monthly consumption. (Merchant)

ISSUE 33: What is the appropriate rate for KWRU's reuse service?

OPC: The Utility's requested rate of $1.34 is appropriate to charge for reuse, and is more reasonable than the rate of $0.93 per thousand gallons approved in the PAA Order. Currently, the two largest users of reuse water are the affiliate golf course and Monroe County Detention Center. The FKAA provides water for KWRU's service territory with a gallonage charge range of $5.84 to $11.70 per kgal. FKAA's reuse rate for a low level of consumption is $2.92 per kgal. Market-based reuse rates are appropriate to provide an incentive to encourage customers to use reuse. In Monroe County, only two entities, including KWRU, currently charge for reuse and KWRU's rate is significantly lower than the other provider. Thus, KWRU's requested rate of $1.34 is reasonable, given the comparable rate of the local water provider. Additionally, no additional charge for testing should be approved. Using KWRU's higher requested reuse rate reduces the burden on the residential and general service customers to achieve the approved revenue requirement; and, consequently, a lower reuse rate has the opposite effect. (Merchant)

ISSUE 34: What are the appropriate miscellaneous service charges to be charged by KWRU?

OPC: Yes, the initial connection charge and normal reconnection charge should remain at $15 and the premises visit charge should be $20 for normal hours and $45 for after hours, as approved by the Commission in its PAA Order. Should the Commission approve higher levels of miscellaneous service charges, higher miscellaneous revenues should be used when calculating the amount of revenues to be collected from service rates. (Merchant)

ISSUE 35: Should KWRU be authorized to collect Non-Sufficient Funds (NSF) charges?

OPC: Yes. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

a. $25, if the face value does not exceed $50,
b. $30, if the face value exceeds $50 but does not exceed $300,
c. $40, if the face value exceeds $300,
d. Or five percent of the face amount of the check, whichever is greater. (Merchant)

ISSUE 36: Should KWRU request to implement a late payment charge be approved?

OPC: KWRU's request to implement a $9.50 late payment charge should not be approved, as the $6.50 charge approved by the Commission in the PAA Order is more reasonable. (Merchant)

ISSUE 37: Should KWRU's be authorized to collect a Lift Station Cleaning charge?

OPC: KWRU should be authorized to collect a monthly lift station cleaning charge of $1,462 from the Monroe County Detention Center. This results in an annual charge of $17,544. (Merchant)

ISSUE 38: If the Commission approves a rate increase for KWRU, when and under what circumstances should it be implemented?

OPC: The Phase I rates should be implemented after the issuance of the final order in this case, and once verified by staff, the Phase I rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. Implementing Phase I rates assumes the 350,000 gpd WWTP expansion project will not be in service by the time the final order is issued.

The Phase II rates should be implemented no sooner than 30 days after the new plant is placed into service and becomes used and useful. Further, the implementation of the Phase II rates should be conditioned upon KWRU completing the pro forma items with appropriate approvals from DEP. Once verified by staff, the Phase II rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. If the Utility encounters any unforeseen events that will impede the completion of the Phase II plant items, then KWRU should immediately notify all parties to this proceeding and the Commission, in advance of the deadline, so as to allow ample time to review whether an extension is appropriate.

If the Commission approves KWRU's request to implement a rate increase <u>prior</u> to the new plant's in-service date and forgo a two-phase rate increase, the Commission should require a true-up mechanism, and the Commission should ensure that all substantially affected persons and parties have an appropriate point of entry to test the reasonableness and prudence of costs that will be included in such rates. Nevertheless, the Commission should still establish Phase I revenue requirements for the purposes of determining what refunds, if any, are owed to customers. (Merchant)

<u>ISSUE 39</u>: Should any portion of the implemented PAA rates be refunded? If so, how should the refund be calculated, and what is the amount of the refund?

OPC: Yes, the Commission-approved Phase I PAA rates that were implemented by the Utility were excessive based on OPC's Phase I revenue requirement calculation. The refund should be applied consistent with the Commission's refund rule and should be credited to customer bills over the same amount of time that the increased rates were collected to offset the initial impact of the Phase II rate increase. (Merchant)

<u>ISSUE 40</u>: Should the Utility's approved service availability policy and charges be revised?

OPC: Yes, the Utility should be allowed to continue to collect the $2,700 per ERC plant capacity charge. (Merchant)

<u>ISSUE 41</u>: **Contested** Should Harbor Shores have been classified as a General Service customer since the last rate case in 2009, and, if so, what action should the Commission take to refund the excess payments made by Harbor Shores since 2009?

OPC: The Commission should investigate this issue to determine whether Harbor Shores should have been a general service customer or not, and what remedy, if any, is appropriate.

<u>ISSUE 42</u>: **Contested** Did KWRU bill and collect revenues in accordance with its approved tariffs? If not, what is the appropriate remedy?

OPC: The PAA Order stated that the Utility's billing practice for several general service customers is inconsistent with its approved tariff, and that Staff would address whether the Utility should be ordered to 'show cause' for charging rates that are inconsistent with its tariff in a subsequent proceeding. Commission Staff sent a letter dated February 18, 2016, to KWRU requesting the Utility to provide a response by March 21, 2016, describing when and under what circumstances each outlined violation occurred and the Utility's plan to correct the billing errors. By letter dated March 21, 2016, the Utility sent a 6 page response, with 22 pages of documents attached. OPC agrees that the issues are very complex and the Utility may owe additional refunds to customers not charged the approved tariffed rates. To rectify this, the Commission should initiate a full audit and investigation up to and potentially including an order to show cause to determine whether and how much of the revenues billed were based on unapproved, thus improper, erroneous billing classifications, and how much these, and potentially other improperly billed customers, are owed in refunds. (Merchant)

ISSUE 43: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

OPC: The rate reduction is a fall-out based on the revenue requirement and the amount of rate case expense.

ISSUE 44: 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?

OPC: Yes. K W Resort shall submit a letter within 90 days of the final order in this docket, confirming that the adjustments to all the applicable NARUC USOA accounts have been made to the Utility's books and records. In the event the Utility needs additional time to complete the adjustments, notice shall be provided within seven days prior to deadline.

ISSUE 45: Should this docket be closed?

OPC: No.

5. **STIPULATED ISSUES:**

1. Plant in service should be reduced by $817,240 based on the Staff Audit Finding 1.

2. Construction work in progress should be increased by $303,099 for the December 31, 2014 Phase I test year based on the Staff Audit Finding 2.

3. Land should be decreased by $923 and O&M expenses (contractual services-other) should be increased by $1,200 for survey fees, and working capital should be increased by $738 based on the Staff Audit Finding 3.

4. CIAC should be decreased by $297,120, accumulated amortization of CIAC should be decreased by $81,153, and test year amortization of CIAC should be decreased by $14,003 based on Staff Audit Finding 4.

5. Accumulated depreciation should be increased by $2,040 and depreciation expense should be decreased by $5,489, based on Staff Audit Finding 5.

6. The wastewater collection system should be considered 100% used and useful.

7. The existing wastewater treatment plant should be considered 100% used and useful before the wastewater treatment plant expansion is placed into service.

8. Accounts receivable-other should be increased by $40,067 and miscellaneous current and accrued assets should be decreased by $13,422, based on Staff Audit Finding 7.

9. Test year revenues for 2014, for Phase I, if applicable, are as follows:

Residential and General Service	$1,411,781
Reuse Revenues	$50,400
Miscellaneous Revenues	$72,619
Total	$1,534,799

10. O&M expenses should be decreased by $4,512, based on Staff Audit Finding 10 and $6,276, based on Staff Audit Finding 11.

11. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:
    a. $25, if the face value does not exceed $50,
    b. $30, if the face value exceeds $50 but does not exceed $300,
    c. $40, if the face value exceeds $300,
    d. Or five percent of the face amount of the check, whichever is greater.

12. KWRU should be authorized to collect a monthly lift station cleaning charge of $1,462 from the Monroe County Detention Center.

13. In calculating the rates to be collected from service rates, the amount of revenues from reuse rates should be calculated using the final approved reuse rate.

14. The appropriate plant capacity charge should remain unchanged at $2,700 per ERC.

6. <u>PENDING MOTIONS</u>:

None.

7. <u>STATEMENT OF PARTY'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY:</u>

None.

8. <u>OBJECTIONS TO QUALIFICATION OF WITNESSES AS AN EXPERT</u>:

None at this time.

9. STATEMENT OF COMPLIANCE WITH ORDER ESTABLISHING PROCEDURE:

There are no requirements of the Order Establishing Procedure with which the Office of Public Counsel cannot comply.

Dated this 14th day of October, 2016

Respectfully submitted,

J.R. Kelly
Public Counsel

/s/ Erik L. Sayler

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Associate Public Counsel

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Attorney for the Citizens
of the State of Florida

CERTIFICATE OF SERVICE
Docket No. 150071-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing Prehearing Statement of the Office of Public Counsel has been furnished by electronic mail on this 14th day of October, 2016, to the following:

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