

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: November 21, 2016

JOINT MOTION FOR EXTENSION OF POST-HEARING BRIEF FILING DATE

The Citizens of the State of Florida (Citizens), by and through the Office of Public Counsel (OPC), and Monroe County, Florida, a political subdivision of the State of Florida (Monroe County), pursuant to Rule 28-106.204, Florida Administrative Code (F.A.C.), hereby file this Joint Motion for Extension of Post-Hearing Brief Filing Date established by Order No. PSC-16-0194-PCO-SU (OEP), issued May 17, 2016, and subsequently modified by the Order No. PSC-16-0372-PCO-SU, issued September 15, 2016 (First OEP), revising order establishing procedure extending time to file intervenor testimony and exhibits, in this docket. The Citizens and Monroe County request that this Motion be granted for good cause, and as grounds state the following:

1. On May 17, 2016, following the timely protest and cross-protest of Proposed Agency Action Order No. PSC-16-0123-PAA-SU, issued March 23, 2016, this Commission issued OEP Order No. PSC-16-0194-PCO-SU, which sets forth the following controlling dates in this docket relate to the filing of testimony:

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| (1) Utility's testimony and exhibits | July 1, 2016 |
| (2) Intervenors' testimony and exhibits | September 9, 2016 |
| (3) Staff's testimony and exhibits, if any | September 23, 2016 |
| (4) Rebuttal testimony and exhibits | October 10, 2106 |
| (5) Prehearing Statements | October 14, 2016 |

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| (6) | Prehearing Conference | October 28, 2016 |
| (7) | Discovery deadline | October 28, 2016 |
| (8) | Hearing | November 7, 8, and 9, 2016 |
| (9) | Briefs | December 2, 2016 |

2. On November 7 and 8, 2016, the service hearing and technical hearing was held, concluding one day early. At the technical hearing, Commission staff provided the parties a USB drive with a copy of all of staff's requested hearing exhibits, Nos. 49 through 72 on the comprehensive exhibit list. However, at the conclusion of the hearing, the USB drives were collected because they inadvertently contained unredacted confidential information.

3. At the conclusion of the hearing, the parties were reminded that post-hearing briefs would be due on December 2, 2016.

4. The Commission website's case activity scheduling report (CASR) shows that transcripts of the evidentiary hearing were due by November 18, 2016, more than a week after the conclusion of the hearing.

5. The service hearing transcript and volume 1 of the technical hearing were posted to the Commission's website the morning of November 18, 2016. Volumes 2 and 3 of the technical hearing were posted sometime after 3pm on November 18, 2016; however, the exact time is unknown. Volumes 4 and 5 were posted to the website on the morning of November 21, 2016.

6. In addition, the hearing exhibits, containing all the pre-filed exhibits attached to testimonies, staff's hearing exhibits, as well as all the other hearing exhibits admitted into the record, have not been uploaded to the Commission's website as of 4:45 pm on November 21, 2016.

7. The Citizens and Monroe County, representing two of the three intervenor parties in this proceeding, have diligently participated in this case by propounding discovery on the Utility, responding to discovery by the Utility, pre-filing testimony, deposing Utility witnesses, cross-examining Utility witnesses at the two day hearing, presenting the live direct testimony of four witnesses at the hearing (with one of the County's witness's testimony and exhibits stipulated into the record without cross), and attempting to prepare their post-hearing briefs. However, without the benefit of the hearing transcripts and hearing exhibits uploaded to the Commission's website, it has presented a significant hardship to complete the briefs by the due date listed in the OEP.

8. Pursuant to Rule 28-106.204(4), F.A.C., "Motions for extension of time shall be filed prior to the expiration of the deadline sought to be extended and shall state good cause for the request."

Good Cause Shown

9. Counsels of record for the Citizens and Monroe County assert that the delay in the posting of the hearing transcripts and hearing exhibits to the Commission's website has materially and significantly delayed the preparation of the post-hearing briefs to be filed on Friday, December 2, 2016.

10. Parties must cite to and necessarily rely solely upon the evidentiary record in their post-hearing briefs; that record consists of the customer service hearing transcript, technical hearing transcripts, and hearing exhibits admitted into the evidentiary record.

11. Shortly after the conclusion of the technical hearing, the redacted hearing exhibits are normally uploaded to the Commission's website. In lieu of having the hearing exhibits from the website, parties can rely upon a disk, CD, or USB drive provided by the Commission staff, while waiting for the hearing exhibits to be uploaded. However, the USB drive was retained by

Commission staff at the conclusion of the hearing and as of 4:45 pm on November 21, 2016, the hearing exhibits were not yet available online.

12. Not having the entire record of hearing exhibits relevant to this case, as well as not having two volumes of the hearing transcript available online until November 21, 2016, has compressed the time in which post-hearing briefs can be drafted and cross-referenced with the hearing record.

13. Further, given the fact all the hearing transcripts were not available until the start of Thanksgiving week, a short work-week for all parties concerned, this delay has materially affected the Citizens and Monroe County's preparation of post-hearing briefs.

14. The above-mentioned inadvertent delays in posting the transcripts and exhibits to the Commission's website constitute good cause for extending the due date for briefs as prayed by the Citizens and Monroe County. Extending the filing date for briefs from Friday, December 2, 2016 to Friday, December 9, 2016, would grant relief from this hardship, thus, allowing all parties sufficient time to fully review the complete evidentiary record, cite to it, and submit post-hearing briefs in support of their respective positions in this docket. Moreover, this short extension of time should not materially or adversely affect Commission staff's preparation of its post-hearing recommendation, which is due to be filed on January 26, 2017.

15. Pursuant to Rule 28-106.204(3), F.A.C., Citizens' Counsel has attempted to confer with all the Parties of record. Harbor Shores Condominium Unit Owners Association, Inc. supports the Joint Motion. Counsel for the Utility did not respond prior to the filing of the Joint Motion.

WHEREFORE, the Citizens and Monroe County hereby request that the Prehearing Officer grant this Joint Motion for Extension of Post-Hearing Brief Filing Date.

Respectfully submitted 21st day of November, 2016.

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CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that a true and foregoing Joint Motion for Extension of Post-Hearing Brief Filing DateJoint furnished by electronic mail on this 21th day of November, 2016, to the following:

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