

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Taylor, Mapp, Crawford, Daniel, Friedrich, Hudson, Johnson) *ASC KAM WDT*

RE: Docket No. 150071-SU – Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp. *DR*

AGENDA: 03/07/17 – Regular Agenda – staff request for reconsideration prior to issuance of post-hearing order – Participation limited to Commission and Staff only

COMMISSIONERS ASSIGNED: Brown, Graham, Patronis

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

K W Resort Utilities Corporation (KWRU or Utility) is a Class A Utility providing wastewater service to approximately 2,061 customers in Monroe County. Water service is provided by the Florida Keys Aqueduct Authority (FKAA). Rates were last established for this Utility in its 2007 rate case. According to the Utility's 2014 Annual Report, KWRU had operating revenues of \$1,479,307 and operating expenses of \$1,199,672. On July 1, 2015, the Utility filed its application for the rate increase at issue. KWRU requested that the application be processed using the Proposed Agency Action (PAA) procedure. The test year established for final rates was the 13-month average period ended December 31, 2014.

On February 24, 2016, the Office of Public Counsel (OPC) filed a Notice of Intervention in this docket, and Order No. PSC-16-0114-FOF-SU acknowledging intervention was issued on March 18, 2016. Subsequently, by Order No. PSC-16-0123-PAA-SU (PAA Order), issued

March 23, 2016, the Commission approved a two-phased rate designed to recover a wastewater revenue requirement of \$2,238,046 in Phase I and \$2,485,904 in Phase II. On April 13, 2016, OPC and Monroe County (County) timely filed protests of the PAA Order. By letter dated April 18, 2016, KWRU gave notice that it elected to put the Phase I rates approved in the PAA Order into effect during the pendency of the administrative hearing pursuant to Section 367.081(8), Florida Statutes (F.S.).¹

On April 18, 2016, Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores) timely filed a cross-petition. On April 21, 2016, KWRU timely filed a cross-protest. On April 26, 2016, the Harbor Shores' representative was granted qualified representative status. A formal evidentiary hearing and service hearing were held November 7-8, 2016, in Key West. The parties filed briefs on December 9, 2016.

On February 7, 2017, the Commission voted to approve new rates and charges for the Utility. Following the Commission's vote, a computational error was discovered within Issue 34, regarding the appropriate miscellaneous service charges that may be charged by the Utility.

This recommendation addresses the calculation of appropriate miscellaneous service charges. The Commission has jurisdiction pursuant to Sections 367.081, F.S.

¹ Pursuant to Ch. 226-2016, Laws of Florida, Section 367.081(8), F.S., was renumbered as subsection (10). However, this statute was in effect when KWRU implemented the PAA rates.

Discussion of Issues

Issue 1: Should the Commission reconsider, on its own motion, its vote on Issue 34 regarding calculation of miscellaneous service charges?

Recommendation: Yes, the Commission, on its own motion, should reconsider a limited portion of its vote on Issue 34 with respect to the calculation of mileage that factors into the Initial Connection Charge Calculation and the Premises Visit Charge Calculation. If the Commission approves staff's recommendation, staff will incorporate this correction into the final order. Staff should be granted the administrative authority to make fall-out calculations.

Staff Analysis:

As a general rule, administrative agencies have inherent or implied power, comparable to that possessed by courts, to rehear or reopen a cause and reconsider its action or determination therein where the proceeding is in essence a judicial one.² This power, however, must be exercised before an appeal from the original order is filed or before such an order has become final by the lapse of time to file a timely notice of appeal.³ An administrative tribunal has the power, upon its own motion or by request, to correct or amend any orders still under its control, provided the parties will not suffer by reason of the correction or amendment.⁴ Since the final order has not yet issued, staff believes the parties will not be prejudiced by this correction, since they will still have an opportunity to request reconsideration or appeal once the final order is issued.

Calculation Error

On February 7, 2017, the Commission voted to approve Issue 34, which pertains to appropriate miscellaneous service charges. Contained within these miscellaneous charges is a charge for transportation expenses. There were inadvertent calculation errors within staff's breakdown of this charge. The transportation cost for the Initial Connection Charge Calculation (Table 1) and Premises Visit Charge Calculation (Table 2) was multiplied by two to represent two trips for each service, when in fact it should have been calculated for only one trip. This resulted in a doubling of this expense such that the original calculated cost of transportation was \$3.36 for Normal Hours Cost and \$6.72 for After Hours Costs, when the correct charges should have been \$1.68 and \$3.36, respectively. This correction results in lower miscellaneous service charges for both initial connections and premise visits. The Normal Reconnection Charge Calculation is still correct, because the calculation properly reflects a round-trip expense on behalf of the Utility. This is because the Normal Reconnection Charge involves two trips. A first trip to the residence is needed to shut off the water, and a second trip is necessary for reconnection. In contrast, the Initial Connection and Premises Visit Charges both involve only a single trip to the residence, thus a one-way expense calculation is all that's required.

² Reich v. Dept. of Health, 868 So. 2d 1275 (Fla. 1st DCA 2004); Smull v. Town of Jupiter, 854 So. 2d 780 (Fla. 4th DCA 2003).

³ Id.

⁴ Boyd v. Southeastern Tel. Co., 105 So. 2d 889 (Fla. 1958).

The tables below show the new figures, with the corrected numbers highlighted.

Table 1
Initial Connection Charge Calculation

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50	Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50
Labor (Field) (\$22.50/hr x 1/3 hr)	\$7.50	Labor (Field) (\$33.75/hr x 1/3hr)	\$11.25
Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00	Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00
Benefits & Insurance (23%)	\$10.81	Benefits & Insurance (23%)	\$11.67
Transportation (\$.56/mile x 3 miles-to/from)	\$1.68	Transportation (\$.56/mile x 6 miles-to/from)	\$3.36
Total	\$59.49	Total	\$65.78

Table 2
Premises Visit Charge Calculation

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1/2 hr)	\$11.25	Labor (Administrative) (\$22.50/hr x 1/2 hr)	\$11.25
Labor (Field) (\$22.50/hr x 1/3 hr)	\$7.50	Labor (Field) (\$33.75/hr x 1/3hr)	\$11.25
Labor (Supervisor) (\$68.00/hr x 1/4hr)	\$17.00	Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00
Benefits & Insurance (23%)	\$8.22	Benefits & Insurance (23%)	\$9.09
Transportation (\$.56/mile x 3 miles-to/from)	\$1.68	Transportation (\$.56/mile x 6 miles-to/from)	\$3.36
Total	\$45.65	Total	\$ 51.95

**Table 3
 Miscellaneous Service Charges**

Charge	Utility's Existing Charges		Utility's Proposed Charges		Staff's Recommended Charges	
	Normal Hours	After Hours	Normal Hours	After Hours	Normal Hours	After Hours
Initial Connection	\$15.00	N/A	\$75.00	\$125.00	\$59.50	\$65.80
Normal Reconnection	\$15.00	N/A	\$75.00	\$125.00	\$65.80	\$76.10
Violation Reconnection	Actual Cost	N/A	\$150.00	\$225.00	Actual Cost	
Premises Visit	\$20.00	\$45.00	\$65.00	\$125.00	\$45.70	\$52.00

Conclusion

Staff recommends that the Commission, on its own motion, reconsider a limited portion of its vote in Issue 34 with respect to the calculation of mileage that factors into the Initial Connection Charge Calculation and the Premises Visit Charge Calculation, and approve the charges as shown in the tables above. If the Commission approves staff's recommendation, staff will incorporate this correction into the final order. Staff should be granted the administrative authority to make fall-out calculations.

Issue 2: Should this docket be closed?

Recommendation: No, pursuant to the Commission's February 7, vote, this docket should remain open for staff's verification that the Utility has completed the recommended refunds, the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and KWRU has notified the Commission in writing that the adjustments for all applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively

Staff Analysis: Pursuant to the Commission's February 7, vote, this docket should remain open for staff's verification that the Utility has completed the recommended refunds, the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and KWRU has notified the Commission in writing that the adjustments for all applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively