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2				
3	129	Errata Sheet, Witness Jeffery	523	543
4		A. Small		
5	49-50	As identified on the		544
6		comprehensive exhibit list		
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13	78-79	As identified on the		710
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15	131	Response to staff's fourth set	737	752
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1 P R O C E E D I N G S

2 (Transcript follows in sequence from
3 Volume 3.)

4 COMMISSIONER POLMANN: Okay. We are back from
5 our lunch -- or recess. So we reconvene, we are
6 back on the record.

7 Turn the page. The next witness is Jeffery
8 Small, and Monroe County, Mr. Wright, please.

9 MR. WRIGHT: Yes, sir, Monroe County calls
10 Jeffery A. Small to the stand.

11 Whereupon,

12 JEFFERY A. SMALL

13 was called as a witness, having been previously duly
14 sworn to speak the truth, the whole truth, and nothing
15 but the truth, was examined and testified as follows:

16 EXAMINATION

17 BY MR. WRIGHT:

18 Q Good afternoon, Mr. Small.

19 A Good afternoon.

20 Q Are you the same Jeffery A. Small that
21 prepared and caused to be filed in this testimony --
22 filed in this proceeding direct testimony consisting of
23 eight pages?

24 A Yes, I am.

25 Q Before I go on, let me confirm that you took

1 **the oath to tell the truth before, earlier in the**
2 **proceeding?**

3 A That is correct.

4 **Q Thank you.**

5 MR. WRIGHT: Mr. Chairman, I have asked the
6 staff to distribute an errata sheet to Mr. Small's
7 testimony and also revised Exhibits JAS-1 and
8 JAS-2.

9 COMMISSIONER POLMANN: Thank you, Mr. Wright.
10 We will wait until everybody gets those, but you
11 can continue.

12 BY MR. WRIGHT:

13 **Q Mr. Small, do you have changes or any**
14 **corrections to make to your prefiled direct testimony?**

15 A Other than those in the errata sheet, no.

16 **Q Thank you.**

17 MR. WRIGHT: Taking my good cue from Ms.
18 Helton, I would ask that we mark the errata sheet
19 as Exhibit 129.

20 COMMISSIONER POLMANN: We have -- we'll enter
21 as Exhibit 129 one page titled Errata Sheet,
22 Witness Jeffery A. Small, and this is a table.

23 (Whereupon, Exhibit No. 129 was marked for
24 identification.)

25 COMMISSIONER POLMANN: Go ahead, Mr. Wright.

1 MR. WRIGHT: Thank you.

2 BY MR. WRIGHT:

3 Q And does this document that has been marked as
4 Exhibit 129 accurately reflect the corrections to your
5 testimony that you mentioned a moment ago?

6 A Yes, they do.

7 Q Thank you.

8 With those changes and corrections, do you
9 adopt this as your sworn testimony to the Florida Public
10 Service Commission in this proceeding?

11 A Yes, I do.

12 Q Thank you.

13 MR. WRIGHT: Commissioner, with that, I would
14 request that Mr. Small's testimony, including the
15 errata as shown on the errata sheet be entered into
16 the record as though read.

17 COMMISSIONER POLMANN: At this time, we will
18 enter into the record Mr. Small's prefiled direct
19 testimony as though read, including Exhibit 129,
20 the errata sheet.

21 (Whereupon, prefiled direct testimony with
22 errata sheet was inserted.)

23

24

25

ERRATA SHEET**WITNESS: Jeffery A. Small**

The following table contains the corrected errata in his prefiled testimony.

Page	Line	Original	Revision
4	6	\$185,406	\$172,704
6	16	10.54 Million	9.26 Million
6	18	\$185,406	\$172,704
6	19	\$185,406	\$172,704
6	20	5.0 percent	4.7 percent
7	11	\$185,406	\$172,704
8	12	\$185,406	\$172,704

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 20170141-SU,

KW RESORT UTILITIES CORPORATION RATE CASE

DIRECT TESTIMONY OF JEFFERY A. SMALL

March 14, 2018

1 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND OCCUPATION.**

2 A. My name is Jeffery A. Small, and my business address is 9525 Graystoke
3 Lane, Orlando, FL 32817. I am self employed as a consultant and majority
4 shareholder of OCBOA Consulting, LLC, which I founded in May 2016.

5

6 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS DOCKET?**

7 A. I am testifying on behalf of the Board of County Commissioners of Monroe
8 County, Florida. Monroe County receives and pays for wastewater treatment
9 service from Key West Resort Utilities Corp. ("KWRU" or the "Utility").

10

11 **Q. PLEASE DESCRIBE YOUR EDUCATION AND EXPERIENCE.**

12 A. I have a Bachelor of Science degree in Accounting from the University of South
13 Florida. I am also a Certified Public Accountant licensed in the State of Florida
14 since August 1995.

1 I was employed by the Florida Public Service Commission (FPSC) from
2 January 1994 through January 2016 as a Professional Accountant Specialist, with
3 my final two years of service as the supervisor of the FPSC's Miami District Office
4 audit staff. In those positions I was responsible for planning, directing and
5 supervising the most complex investigative audits. Audits or engagements that I
6 have performed and managed include staff-assisted rate cases and file and
7 suspend rate cases for water and wastewater utilities as well as cross-
8 subsidization issues, anti-competitive behavior, and predatory pricing cases
9 covering various other regulated industries. I was also responsible for creating
10 audit work programs to meet specific audit requirements and integrating EDP
11 applications into those programs.

12
13 **Q. DO YOU HOLD ANY PROFESSIONAL CERTIFICATIONS?**

14 A. Yes, I am a Certified Public Accountant (CPA) in the State of Florida.

15
16 **Q. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE THE FLORIDA PUBLIC
17 SERVICE COMMISSION ("THE COMMISSION")?**

18 A. Yes. I have submitted testimony during my previous employment with the FPSC
19 to support staff audits of multiple Nuclear Cost Recovery Filings for Progress
20 Energy Florida, Inc., Docket Nos. 20080009-EI through 20130009-EI. I have also
21 testified in the Southern States Utilities, Inc. rate case, Docket No. 19950495-WS,

1 the Cypress Lakes Utilities, Inc. transfer application, Docket No. 19971220-WS,
2 and the Utilities, Inc. of Florida file and suspend rate case, Docket No. 20020071-
3 WS, and the Florida Power & Light, Company, Fuel & Purchased Power Cost
4 Recovery Clause, Docket No. 2015001-EI.

5
6 **Q. ARE YOU SPONSORING ANY EXHIBITS WITH YOUR TESTIMONY?**

7 A. Yes. I am sponsoring the following exhibits:

8 Exhibit JAS-01: Estimated Revenue Impact of Using Projected Billing
9 Determinants on Requested Revenues at Proposed Rates;
10 and

11 Exhibit JAS-02: Usage Information Provided by Monroe County.

12
13 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

14 A. The purpose of my testimony is to present the estimated impact of using
15 projected billing determinants for the first year that the new rates (if any)
16 approved by the Commission in this case will be in effect to determine any
17 allowed revenue and rate increases that the Commission may approve in this
18 case.

19
20
21

1 **Q. PLEASE SUMMARIZE YOUR RECOMMENDATIONS TO THE COMMISSION.**

2 A. My analysis shows that incorporating the additional billing determinants (Base
3 Facility Charges and gallons treated for determining Gallonage Charge revenues)
4 identified in the testimony of Monroe County's witness Kevin G. Wilson, P.E.,
5 into the revenue requirements determination for KWRU will reduce the amount
6 of any revenue increase by approximately \$185,406 (based on KWRU's proposed
7 rates). This is shown in my Exhibit JAS-01. Additionally, using these adjusted
8 billing determinants (sales units) to set the Utility's rates will result in lower rates
9 than if the billing units are not adjusted; this is especially appropriate to achieve
10 fair and reasonable rates because the Utility has proposed that additional costs
11 (pro forma increases in costs) beyond the actual costs in the test year be used to
12 set its rates, so for the rates to customers to be fair, the sales units over which
13 those costs will be recovered must match the period in which the Utility will
14 recover the additional, outside-the-test-year costs. This is called the "matching
15 principle," which has been used by the Commission in previous cases, including
16 the last KWRU rate case in 2016, and which is supported in this case by former
17 Commission Chairman J. Terry Deason. I fully support and recommend that the
18 Commission apply the matching principle in this case, just as it did in the 2016
19 KWRU rate case.

20

1 **Q. How did you perform or prepare the analyses that support your testimony and**
2 **recommendations?**

3 A. I first examined the Utility's billing units as shown in its Minimum Filing
4 Requirements. These are presented in MFR Schedule E-2, page 45, as being the
5 billing determinants used in estimating the Utility's revenues at proposed rates
6 and in calculating the Utility's rates, assuming that its total requested increase
7 was to be granted.

8 I then examined the estimated additional billing units that are projected to
9 be realized by KWRU in the twelve months beginning on July 1, 2018. These
10 additional billing units are the number of bills for which a Base Facilities Charge
11 is paid and gallons treated, for which Gallonage Charges are paid, identified in
12 the testimony of Mr. Kevin Wilson, P.E., the Assistant County Administrator for
13 Public Works and Engineering; Mr. Wilson also furnished information regarding
14 the estimated number of Equivalent Residential Connections, or "ERCs,"
15 associated with the additional, incremental usage. (The information provided by
16 Mr. Wilson is presented in my Exhibit JAS-02.) The twelve-month period
17 beginning on July 1, 2018 was chosen to correspond to the fact that KWRU's
18 proposed test year ends on June 30, 2017; in fact, this is probably a conservative
19 assumption. My examination also included reviewing testimony from the 2016
20 KWRU rate case and the data provided by Mr. Wilson for this case.

21

1 **Q. Why do you say that this is conservative?**

2 A. This is a conservative assumption because these sales units are based on known
3 changes for the projected period. The actual change in sales units will likely be
4 greater during the year following the implementation of any new rates, e.g.,
5 September 1, 2018 through August 31, 2019, simply because there may be
6 additional growth in customers and sales during that period as compared to the
7 period that the County's other witnesses and I are using for our analyses and
8 recommendations. I mention the September 2018 to August 2019 period here
9 because the Commission Case Schedule indicates that the Commission will not
10 even vote on this case until August 7, 2018, such that any new rates probably
11 will not be effective until late August or early September, 2018.

12

13 **Q. What is your conclusion regarding likely additional revenues that should be**
14 **incorporated into the Commission's determination of new rates for KWRU in**
15 **this case?**

16 A. Based on the projected additional 10.54 Million Gallons of wastewater treated in
17 the July 2018-June 2019 period, I estimate that the additional sales would
18 produce approximately \$185,406 in additional revenues for the Utility. In turn,
19 this would reduce any allowed revenue increase by approximately \$ 185,406 on
20 an annual basis (approximately 5.0 percent of KWRU's total requested
21 revenues). This is shown in my Exhibit JAS-01. This reduction is appropriate

1 because otherwise, it is highly likely that KWRU would overearn because it would
2 collect revenues from sales when the new rates are in effect that were not
3 accounted for in its historical test year.

4

5 **Q. Does your Exhibit JAS-01 present Monroe County's position on the revenue**
6 **increase that the Utility should be awarded in this case?**

7 A. No. That determination will ultimately depend on the resolution, by the
8 Commission, of the numerous investment, rate base, depreciation, net operating
9 income, and expense issues in this case. My analysis and my Exhibit JAS-01 show
10 by how much any revenue increase should be reduced to account for the fact
11 that KWRU will be realizing approximately \$185,406 in additional revenues
12 during the time that the new rates will be in effect.

13

14 **Q. How should the Commission use these values in setting rates for KWRU at the**
15 **conclusion of this case?**

16 A. In the simplest terms, rates are calculated by dividing allowed revenue
17 requirements by billing determinants. My revenue values reflect the additional
18 billing determinants – Base Facilities Charges and Gallonage Charges billed and
19 the associated revenues – based on the estimated incremental values supplied
20 by Mr. Wilson. Following the recommendations of former Chairman Deason,
21 and the Commission's recognition of the "matching principle" in the 2016 KWRU

1 rate case, these billing units should also be used in calculating the rates for the
2 Utility for the period during which those rates will be in effect. I have not
3 performed that calculation, because, as noted above, the final revenue
4 requirements value will not be known until the Commission decides the
5 numerous investment, rate base, depreciation, operating income, and expense
6 issues in this case.

7

8 **Q. Please summarize your direct testimony.**

9 A. Using estimated additional usage values supplied by Monroe County's Witness
10 Kevin Wilson, P.E., for gallonage treated and ERCs served, I estimate that any
11 revenue increase that might be awarded to KWRU in this case should be reduced
12 to reflect the additional \$185,406 in revenues that the Utility would realize in the
13 first twelve months following implementation of new rates. Following the
14 recommendations of former Chairman Deason and the Commission's
15 appropriate recognition of the "matching principle" in the 2016 KWRU rate case,
16 the Commission should use these billing determinants to set final rates for
17 KWRU at the conclusion of this case.

18

19 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

20 A. Yes.

1 BY MR. WRIGHT:

2 Q And, Mr. Small, did you also prepare and cause
3 to be filed in this case two exhibits designated in your
4 testimony as JAS-1 and JAS-2?

5 A Yes, I did.

6 Q And is it correct that those have been
7 modified as a result of some changes in Mr. Wilson's
8 testimony?

9 A That is correct.

10 Q Do you have copies of the revised exhibits?

11 A Yes, I do.

12 MR. WRIGHT: They have been distributed, Mr.
13 Chairman, to all the parties, and I would ask that
14 those revised exhibits be marked respectively as
15 Exhibit 49 and 50 -- well, I ask that they be
16 identified with the exhibits that have been marked
17 for identification at this time as Exhibits 49 and
18 50 in the comprehensive exhibit list.

19 COMMISSIONER POLMANN: JAS-1 and JAS-2 were
20 prefiled, and what's been provided to the parties
21 is in addition to that?

22 MR. WRIGHT: Yes, sir.

23 COMMISSIONER POLMANN: And they previously
24 were identified as Exhibits 49 and 50 in the
25 comprehensive exhibit list, so we will come back to

1 BY MR. SMITH:

2 Q Good afternoon, Mr. Small.

3 A Good afternoon.

4 Q In front of you should be left over from
5 Mr. Wilson a copy of the prehearing order.

6 A Correct.

7 Q If you could turn to page 16.

8 A It's --

9 Q Page 16.

10 A Okay.

11 Q Do you see under Issue 16, the County's
12 position?

13 A Yes, I do.

14 Q The appropriate test year revenue value
15 excluding any increase of approximately 2,502,000?

16 A Correct.

17 Q Were you involved in the creation of this
18 position?

19 A I provided the change in the billing
20 determinants -- the change in revenues based on billing
21 determinants that was encompassed in that number.

22 Q Okay. Do you understand the test year
23 revenues are from the actual test year?

24 A Correct.

25 Q Okay. So you understand the test year was

1 July 1st, 2016, to June 30th, 2017?

2 A The historical test year.

3 Q Yes. Do you understand that?

4 A Yes.

5 Q Do you understand that the test year revenues
6 are the revenues from that test year?

7 A Yes, I do.

8 Q Okay. The test year revenue -- the additional
9 test year revenues you assert would come on line, you
10 would agree that those are future flows, correct?

11 A Correct.

12 Q You would agree those did not happen in the
13 test year?

14 A Correct.

15 Q Please go to Issue 35, page 22 of the
16 prehearing order. Page 22 of that order.

17 A I am sorry, page what?

18 Q Page 22.

19 A 22. Okay.

20 Q Under Issue 35, you see the County's position?

21 A Yes.

22 Q Okay. It states: As supported by Monroe
23 County witnesses, (a), the appropriate adjustment to the
24 number of bills is an increase of 864 bills, yielding a
25 total of 22,601 bills, (assuming that Harbor Shores

1 counts as only one bill); and (b), the appropriate
2 adjustment to the number of gallons is an increase of
3 10,540,000 gallons, yielding a total of 227,719,000
4 gallons. Do you see that position?

5 A Yes, I do.

6 Q Were you involved in the creation of that
7 position?

8 A To the extent that the increase in the billing
9 determinants of 864 bills increased the total number of
10 bills to that 22,601, yes.

11 Q Okay. Let's go to the bills. That -- those
12 bills would be encompassed in your Exhibit JAS-02,
13 correct? Are you on JAS-02?

14 A I am on JAS-02, more appropriately, the --
15 it's six, is it six -- 864, you will see that JAS-02
16 rolls into JAS-1, and the 864 is the sum of the change
17 in bills on JAS-1.

18 Q Okay. And did you derive that change in bills
19 from the projected additional customers in JAS-02?

20 A Correct.

21 Q Okay. Let's go -- turn to JAS-02 then.

22 A Okay.

23 Q All right. Under the residential, you --
24 first, KWRU bills off FKA meters, correct?

25 A Correct.

1 Q Their tariff does not permit them to bill off
2 submeters behind the FKA meter, correct?

3 A That is my understanding.

4 Q Okay. For the 66 residential customers that
5 you have projected to come on line in the future, I
6 would presume the 62 are for Sunset Marina, correct?

7 A I could not speak directly to who the
8 particular customer is. This information was provided
9 to me by Witness Wilson.

10 Q Okay. So if the actual residential customers
11 are not going to have new residential FKA meters, you
12 would have to reduce the amount of bills for the
13 residential customers, correct?

14 A That being the case, yes. However, it was my
15 understanding that these 66 customers would be new
16 additional meters.

17 Q And where did you obtain that understanding?

18 A From Witness Kevin -- Witness Wilson's
19 information that he provided.

20 Q You understand Mr. Wilson testified that he
21 does not know whether there will be new FKA meters?

22 A I was in the room when you were talking about
23 that, and it was my understanding that you were talking
24 about the Sunset Marina, or something like that, when he
25 made that statement, but I would qualify that I may have

1 misunderstood what he was saying.

2 Q Okay. But you will rely on Mr. Wilson's
3 testimony whether any details if there are FKA meters?

4 A Yes, I will.

5 Q Okay. As to the five commercial customers,
6 you see that on your JAS-02, correct?

7 A Yes, I do.

8 Q Is that the five different customers that are
9 listed below?

10 A Yes, it is.

11 Q If Oceanside's meter existed during the test
12 year, you would agree that would not be a new meter to
13 be added, correct?

14 A If it already exists during the historical
15 test year, correct.

16 Q Same question for Stock Island Marina, Stock
17 Island?

18 A Same answer.

19 Q Bernstein Park, do you know if there is
20 actually one meter or two meters for Bernstein Park?

21 A Based on the testimony from Mr. Wilson this
22 morning, I understand that there are two meters at which
23 one is an irrigation.

24 Q All right. Are you aware of whether the KWRU
25 bills irrigation meters at base facility charge?

1 A I am not aware of that, but I would not think
2 they would since that does not return to the sewage
3 system.

4 Q And you are aware that the Bernstein Park had
5 two meters prior to its redevelopment?

6 A I was not aware of that.

7 Q Gerald Adams School, you understand that
8 school exists today, correct?

9 A I heard discussions on it today, yes.

10 Q You are aware that school existed during the
11 test year?

12 A Excuse me?

13 Q You are aware that school existed during the
14 test year?

15 A I will accept your statement on that. I am
16 not aware of that.

17 Q As to the Florida Keys SPCA, you are aware
18 that the SPCA building that exists today is being
19 demolished, correct?

20 COMMISSIONER POLMANN: Mr. Smith, could I
21 encourage you to please ask your questions in the
22 form of a question?

23 MR. SMITH: I apologize.

24 COMMISSIONER POLMANN: You are making
25 statements.

1 BY MR. SMITH:

2 Q Did you hear the testimony today that the
3 current FKSPCA building is required to be demolished?

4 A No, I did not.

5 Q If the -- I want to turn to your JAS-01.

6 All right. First, at the top, you have
7 identified as a projected 2019, do you see that?

8 A Yes, I do.

9 Q Okay. If the projected 2019 base facility
10 charge were drastically reduced, that would reduce the
11 new income in the projected 2019 year, correct?

12 A You are talking about my projected income
13 calculation?

14 Q Yes.

15 A Correct. If the number of ERCs was reduced --
16 I mean, excuse me, if the number of ERCs remained the
17 same but the proposed rate changed below the, for
18 instance, the residential for 50 below 50.74, then, yes,
19 that number would reduce.

20 Q Again, if the projected new bills -- new
21 gallonage was less than what was provided by Mr. Wilson,
22 then that would also reduce the amount of income
23 perceived, correct?

24 A Correct.

25 MR. SMITH: Thank you. I have no further

1 questions.

2 COMMISSIONER POLMANN: Thank you, Mr. Smith.

3 Mr. Sayler, do you have any questions?

4 MR. SAYLER: Public Counsel has no questions
5 for this witness.

6 COMMISSIONER POLMANN: Thank you, Mr. Sayler.
7 Staff?

8 MS. MAPP: Staff has no questions for this
9 witness.

10 COMMISSIONER POLMANN: Thank you, Ms. Mapp.
11 Commissioners?

12 COMMISSIONER FAY: No.

13 COMMISSIONER POLMANN: Redirect?

14 MR. WRIGHT: No redirect. Thank you,
15 Commissioner.

16 COMMISSIONER POLMANN: Thank you, Mr. Wright.
17 Exhibits.

18 MR. WRIGHT: I would move the admission of
19 Revised Exhibit 49, Revised Exhibit 50 and Exhibit
20 129.

21 COMMISSIONER POLMANN: Okay. Exhibit 129 was
22 previously identified here this morning. We will
23 move that into the record at this time.

24 (Whereupon, Exhibit No. 129 was received into
25 evidence.)

1 COMMISSIONER POLMANN: And Exhibits 49 and 50,
2 which -- both of which are revised according to the
3 material we received here -- I am sorry, I said
4 this morning, I meant this afternoon for Exhibit
5 129.

6 Exhibits No. 49 and 50 on the comprehensive
7 exhibit list were also identified as JAS-1 and
8 JAS-2 were revised here today, and we will move
9 those into the record at this time.

10 (Whereupon, Exhibit Nos. 49 & 50 were received
11 into evidence.)

12 MR. WRIGHT: Thank you, Commissioner.

13 And with that, I would ask that Mr. Small be
14 excused.

15 COMMISSIONER POLMANN: Okay. You are excused,
16 sir.

17 THE WITNESS: Thank you.

18 (Witness excused.)

19 MR. SAYLER: Commissioner Polmann, I believe
20 the next witness is Mr. Schultz, and I do
21 apologize, I do need five minutes to tend to
22 something, and I will be right back.

23 COMMISSIONER POLMANN: Five minutes?

24 MR. SAYLER: Yes, sir.

25 COMMISSIONER POLMANN: We are in recess for

1 five minutes.

2 (Brief recess.)

3 Whereupon,

4 HELMUTH W. SCHULTZ, III

5 was called as a witness, having been previously duly
6 sworn to speak the truth, the whole truth, and nothing
7 but the truth, was examined and testified as follows:

8 COMMISSIONER POLMANN: Mr. Sayler, let's
9 proceed, please.

10 MR. SAYLER: Commissioner Polmann, thank you
11 very much for that five-minute break.

12 Currently being passed out is an errata sheet
13 to the direct testimony of Mr. Helmuth Schultz, and
14 I would like to have that marked for -- identified
15 and marked for the record as Exhibit No. 130.

16 I would like to note that this was filed in
17 the docket file previously on April 23rd -- excuse
18 me, April 27th, and so everyone should have it, but
19 just for the completeness, we are doing it here
20 again today.

21 COMMISSIONER POLMANN: Thank you, Mr. Sayler.
22 We will identify Exhibit 130, this is Witness
23 Schultz, Office of Public Counsel. The description
24 is errata to direct testimony of Witness Schultz,
25 and the substance is Table 1 page --

1 MR. SAYLER: Yes, sir.

2 COMMISSIONER POLMANN: Cover sheet.

3 (Whereupon, Exhibit No. 130 was marked for
4 identification.)

5 COMMISSIONER POLMANN: Proceed.

6 EXAMINATION

7 BY MR. SAYLER:

8 Q Mr. Schultz, good afternoon.

9 Would you please state your name and business
10 address for the record?

11 A Yes. My name is Helmuth W. Schultz, III. My
12 business address is 15728 Farmington Road, Livonia,
13 Michigan.

14 Q And did you prefile testimony on March 14th in
15 this docket for the citizens of the state of Florida?

16 A I did.

17 Q And you have a copy of that with you today?

18 A I do.

19 Q All right. And you have reviewed the errata
20 sheet marked as Exhibit 130 in this case?

21 A Yes, sir.

22 Q And with those changes to your testimony -- or
23 excuse me -- corrections to your testimony, do you have
24 any other additional changes?

25 A No, sir.

1 Q All right. And if you were asked the same
2 questions again today, would your answers be the same?

3 A Yes, sir.

4 Q All right. And do you adopt this as your
5 sworn testimony here today?

6 A I do.

7 Q All right. And did you also prepare and file
8 Exhibits HWS-1 through 3 in this docket?

9 A Yes, sir.

10 Q And those are the same exhibits identified on
11 the comprehensive exhibit list as Exhibits 36 through
12 38?

13 A I believe you.

14 Q All right. Subject to check.

15 A Yeah.

16 Q All right.

17 MR. SAYLER: Mr. Chairman, with the
18 corrections to his testimony, we would like to have
19 his testimony submitted into the record as though
20 read.

21 MS. MAPP: Commissioner Polmann, I would just
22 state that in preliminary matters, it was
23 determined that, pursuant to KWRU's motion to
24 strike portions of Witness Schultz's testimony,
25 that it was decided voir dire would be allowed, and

1 I believe the appropriate time to do so would be
2 now prior to the entrance of his direct testimony.

3 COMMISSIONER POLMANN: In order to determine
4 whether portions of the direct testimony will be
5 stricken, we will hold off on entering the prefiled
6 direct testimony into the record. And we need to
7 address resolution of the petitions that were
8 filed -- actually, the petition, I believe. Well,
9 there was a petition and then there was a response,
10 is that correct?

11 MR. SMITH: A motion.

12 COMMISSIONER POLMANN: I am sorry. Motion.

13 Ms. Helton, if you will state, or Ms. Mapp,
14 perhaps Ms. Helton could help me --

15 MS. HELTON: There was --

16 COMMISSIONER POLMANN: -- put the right words
17 into the record here as to what we are doing.

18 MS. HELTON: There was a motion to strike
19 portions of testimony of Witness Schultz by KW
20 filed on April 27th, and OPC filed a response on
21 May 4th. And I believe, Mr. Chairman, that you
22 ruled in the prehearing order that you would allow
23 KW to conduct voir dire examination of Witness
24 Schultz to then make a ruling today whether you
25 will, in fact, strike any of his testimony as

1 requested by the utility.

2 So I believe at this time we are in the
3 posture where -- I am not sure if it's going to be
4 Mr. Smith or Mr. Friedman that will be conducting
5 the voir dire.

6 COMMISSIONER POLMANN: Okay. We are prepared
7 to move forward. We will go through the voir dire,
8 and then I will take a brief recess to consult with
9 my legal advisers, and we will come back and make a
10 ruling on this, and then we can go back to the next
11 steps.

12 Mr. Smith.

13 MR. SMITH: Yes, thank you.

14 For everyone's recollection, there is two
15 portions of Mr. Schultz's testimony that we
16 requested to be stricken as he does not have
17 expertise to render an opinion in these two areas,
18 they are contained in the motion to strike.

19 The first which I will voir dire on is the
20 construction costs of the new office. This is
21 contained in page 12, lines 14 through 25 of
22 Witness Schultz's prefiled direct testimony, and I
23 will read the testimony into the record.

24 It's question: "Why is the company's request
25 excessive?"

1 A: While I am not a contractor, I have
2 familiarity with construction projects and the
3 costs in reviewing project costs based upon my 40
4 plus years of experience in utility accounting. A
5 cost of 240 per square foot is high. An online
6 review of construction costs indicated costs for
7 office buildings, two to four stories, \$140 per
8 square foot to \$240 per square foot. The \$240 per
9 square foot is in New York City. Another cost
10 estimate was 2,324 square foot home in Broward
11 County. That cost was \$137 per square foot. On
12 another site, I located a commercial construction
13 cost calculator and requested an estimate for a
14 1,200 square foot building in Miami and in West
15 Palm Beach. The calculator came up with a cost of
16 \$83 per square foot in Miami and \$80 per square
17 foot in West Palm Beach. Clearly, the different
18 cost estimates show that company's \$240 per square
19 foot is excessive, even for Key West. Ratepayers
20 should not foot the bill for increased spending by
21 the company."

22 So this is the testimony that we are
23 requesting be stricken, and I believe it's actually
24 a statement prior to that where he states that the
25 cost of the modular office is excessive.

1 VOIR DIRE EXAMINATION

2 BY MR. SMITH:

3 Q Mr. Schultz, good morning -- afternoon.

4 A Good afternoon, sir.

5 Q First, going to your educational background.
6 You are a CPA, correct?

7 A That is correct, sir.

8 Q So you have a degree in accounting?

9 A I have a degree in accounting. Yes, sir.

10 Q Do you have any Master's degree?

11 A No, sir.

12 Q You are a Certified Public Accountant?

13 A Yes, sir.

14 Q And did you -- do you have a degree in
15 engineering?

16 A I do not have a degree in engineering.

17 Q Are you licensed as an engineer?

18 A I am not licensed as an engineer.

19 Q Do you have a degree in architecture?

20 A I do not have a degree in architecture.

21 Q Do you have a licensure as an architect?

22 A I do not have a license in architecture.

23 Q Do you have a contractors' license in the
24 state of Florida?

25 A No, I do not have a contractor's license. I

1 mean, that is why I put it in my testimony. I didn't
2 want to make it suggestive that I am a contractor and I
3 had expertise beyond what some would consider a
4 contractor's expertise should be.

5 I note also, though, that what I put into this
6 testimony is that I did research on the cost of
7 construction per square foot. This is readily available
8 information. And I had that in my testimony. And in
9 response to company discovery, I provided the documents
10 to show where that information came from.

11 I note that while I am not a contractor, and I
12 am talking about a cost per square foot, the company has
13 put a witness on, Mr. Pabian, who is also not a licensed
14 contractor according to the state of Florida. He is not
15 a licensed contractor in the --

16 **Q I would object. This isn't an argument. This**
17 **is not germane to the questioning at issue, and this**
18 **would be something a bit -- that would be requested on a**
19 **motion from OPC or a party. I asked you simply are you**
20 **a contractor, you said no. Correct?**

21 A That is correct, sir. I am not.

22 **Q Okay.**

23 A You don't have to be a contractor to make --

24 COMMISSIONER POLMANN: Sir.

25 THE WITNESS: Yes.

1 COMMISSIONER POLMANN: The process here is
2 counsel asks the question. The normal routine is,
3 to the best of your ability, answer yes or no. You
4 will have an opportunity to explain yourself if a
5 clarification is needed as to yes or no, if there
6 is a qualification on that.

7 The point Mr. Smith is making, and I agree
8 with, is this is not the time to provide testimony
9 or to elaborate on why you put something in your
10 testimony. That's not what the purpose is at this
11 point.

12 So to the best of your ability, if there is a
13 yes or no question, please answer yes or no --

14 THE WITNESS: Yes.

15 COMMISSIONER POLMANN: -- and we will give you
16 an opportunity to elaborate on the yes or no.

17 THE WITNESS: Yes, sir.

18 COMMISSIONER POLMANN: Thank you.

19 BY MR. SMITH:

20 **Q You don't act as a developer, do you?**

21 A I do not act as a developer. No, sir.

22 **Q You have never built anything in the Florida**
23 **Keys, correct?**

24 A I have never built anything in the Florida
25 Keys. No, sir. I do -- I will make one correction to

1 something that you asked me about in my deposition.

2 Q I didn't ask about your deposition. I asked
3 you if you ever built something in the Florida Keys.

4 A I am just trying to clarify something. You
5 had asked me if I am familiar with some construction in
6 the Florida Keys at one time, and I was just trying to
7 clarify that. It's fine, I won't --

8 Q I did not ask that question, sir.

9 In your testimony, you never -- according to
10 your testimony, you never did research for construction
11 costs in the Florida Keys, correct?

12 A In my testimony?

13 Q According to your prefiled testimony, where
14 you're explaining the research you performed, you never
15 performed any research of construction costs in the
16 Florida Keys, correct?

17 A I did not do research of the costs in the
18 Florida Keys as stated in my testimony.

19 Q Okay.

20 MR. SMITH: That's all the questions I have on
21 that issue. If you want any argument or anything I
22 can do so now, or I can move on to the next issue.

23 MR. SAYLER: Commissioner Polmann, is it
24 appropriate for me to ask questions of our witness
25 in voir dire, or is it only for the utility?

1 MS. HELTON: I think that it is appropriate
2 for Mr. Sayler to conduct a redirect, but I don't
3 know whether you want to go ahead and have
4 Mr. Smith do the second part as well, and then Mr.
5 Sayler can ask redirect on both points.

6 MR. SMITH: If I may, for a point of clarity,
7 typically if his testimony wasn't prefiled
8 testimony, because it is prefiled testimony, they
9 had every opportunity to put the necessary training
10 and experience to justify the ability to render an
11 opinion with expertise to do so.

12 For voir dire to allow for him to now be able
13 to provide the justification would not allow us due
14 process, because that would be an amendment to his
15 direct testimony that's not included in the direct
16 testimony.

17 COMMISSIONER POLMANN: What I heard were two
18 different points, so let me separate them.

19 The motion to strike portions identifies
20 testimony related to costs per square foot, to
21 which I will intend to make a ruling. You have
22 identified a specific page and line numbers. Your
23 motion also addresses testimony related to pension
24 plan, to which I also intend to make a ruling. And
25 those will be two separate rulings, because they

1 are separate subject matter and substance within
2 the direct -- prefiled direct testimony. So we
3 should anticipate two separate rulings on that.
4 You just made the point of distinguishing that in
5 your voir dire, so I would like to take those up
6 separately, the testimony.

7 To Mr. Sayler's request, what was your purpose
8 so that I can speak clear? I heard counsel's
9 point, that it would not be my intention to -- for
10 you to ask the witness as if you are trying to
11 contribute at this point to argument, or adding to
12 the testimony here in the voir dire process, so I
13 am not sure exactly what your request is.

14 MR. SAYLER: We are not here to add to his
15 prefiled direct testimony. Matter of fact, as I
16 understand, this is not part of his testimony until
17 it's admitted into the record as though read.

18 However, the utility has challenged his
19 expertise as an accounting witness, as someone who
20 has more than 40 years of presenting testimony
21 before various commissions as an expert in
22 accounting and rate-making, opining upon the
23 reasonableness of costs of all sorts of capital
24 items, whether it be pipelines to modular units.
25 And this testimony is not being offered as an

1 expert contractor, but more as a comparison for the
2 cost of housing per square foot based upon
3 Mr. Johnson's testimony that it be 1,200 square
4 feet, and I do have some questions because he does
5 have background.

6 COMMISSIONER POLMANN: Okay. Mr. Sayler, the
7 utility has identified very specific testimony that
8 they have requested to strike on page 12, lines 15
9 through 25. It's very narrow. They are not
10 questioning over any of the things that you just
11 identified.

12 So if you want to address something specific
13 to page 12, lines 14 through 25, I want to try to
14 allow that --

15 MR. SAYLER: Okay.

16 COMMISSIONER POLMANN: -- but let's not go
17 into his entire background as an accountant, and
18 all of the other things that he may have an opinion
19 on. This is specific to testimony related to cost
20 per square foot. That's what their motion is.

21 MR. SAYLER: Yes. And actually, his question
22 in his testimony is why is the company's request
23 excessive?

24 COMMISSIONER POLMANN: On that particular
25 point.

1 MR. SAYLER: On that particular point. And
2 he, as an accountant, is comparing costs that
3 accountants can find -- anybody can find readily
4 available on the internet. And he is not offering
5 it as an expert, but more as a comparison for those
6 costs for his opinion.

7 COMMISSIONER POLMANN: Yes, he has brought
8 forth into this proceeding, and we don't make the
9 distinction -- the Commission does not have a
10 practice of distinguishing between experts and fact
11 witnesses. The question is whether he is qualified
12 to provide the opinion based on training, education
13 and experience.

14 MR. SAYLER: Or specialized knowledge.

15 COMMISSIONER POLMANN: That's -- yes,
16 knowledge, training, education and experience is
17 what's being tested at this moment.

18 So having said that, Ms. Helton, do you have
19 any other advice as to whether or not Mr. Sayler
20 should be provided an opportunity to ask questions?

21 MS. HELTON: We are in a unique posture here
22 in our proceedings because the testimony is
23 prefiled. We are also in a unique posture because
24 it's the Commission's typical practice to accept
25 testimony that is -- comes before it as an expert

1 witness, unless for some reason the witness is
2 specifically designated that he or she is not an
3 expert, or unless the expert is called into
4 question, or the expertise of the witness is called
5 into question.

6 Because of our unique practice, it's my
7 opinion that if one party seeks to voir dire the
8 witness, that I believe that it is appropriate for
9 the party who's calling the witness to conduct a
10 redirect examination live before you as the voir
11 dire is live before you because it is our practice
12 to normally accept witnesses as expert witnesses.

13 However, the arguments that Mr. Sayler are
14 making, I believe, are arguments that should have
15 been made in his response to the motion to strike.

16 When I -- in a very cursory review, as Mr.
17 Sayler was talking about what he wanted to talk to
18 the witness about, he doesn't say anything in here
19 about the purpose of Witness Schultz's testimony.
20 He talks about whether Witness Schultz is an
21 expert, and whether it's appropriate for the
22 utility to call into question Mr. Schultz's
23 expertise.

24 If Mr. Sayler can keep his questions narrow to
25 conduct redirect based on the questions of

1 Mr. Smith, I think that's appropriate; but if he
2 goes into the purpose of Witness Schultz's
3 testimony, I am not so sure about that.

4 COMMISSIONER POLMANN: I have heard the advice
5 to me. You are sitting here, you heard her advice
6 to me.

7 MR. SAYLER: Certainly. And those are the
8 type of questions I intend to ask Mr. Schultz.

9 COMMISSIONER POLMANN: Okay. Okay. I am
10 going to allow you to proceed. I have given you --
11 put you on notice that we all know what the
12 utility's motion was, and I refer specifically
13 again to page 12, lines 14 through 25.

14 It's not appropriate for Ms. Helton, our
15 General Counsel, to object, but we have staff
16 counsel here as a participant, and I am going to
17 reinstruct them as I did at the beginning to please
18 participate. If there is something you believe is
19 inappropriate, because I am not practiced here as
20 others are. So Ms. Crawford, Ms. Mapp, given the
21 advice that we've all heard from Ms. Helton, please
22 act accordingly.

23 MR. SAYLER: Yes, sir.

24 COMMISSIONER POLMANN: Mr. Sayler, you may
25 proceed.

1 MR. SAYLER: All right.

2 FURTHER EXAMINATION

3 BY MR. SAYLER:

4 Q Mr. Schultz, on page 12, line 15, you state:
5 "While I am not a contractor, I have familiarity with
6 construction projects." Do you see that?

7 A Yes, sir.

8 Q Can you please explain to this Commission your
9 familiarity with construction projects in Michigan?

10 A I have familiarity with construction
11 projects -- well, specifically in Michigan, would be the
12 construction of a residential structure. I have
13 participated in the construction of them.

14 I am the one who wrote the testimony. I say I
15 have familiarity with construction projects, that's
16 basically -- the intent of that statement is I have been
17 doing this for 40 some years. I have looked at
18 construction projects in every rate case I actually
19 participate in.

20 So that was what that statement is about. And
21 I have had -- with respect to those recommendations that
22 I have made on those construction projects, I have had
23 commissions in various jurisdictions accept my
24 recommendations, including the State of Florida.

25 I have had, even where I took exception to

1 costs in a intercoastal utility case that was overseen
2 by an ALJ, and in that case, I was focused, as I am in
3 this, at the costs; not the integrity of the building;
4 not the actual construction of it, but in the costs.
5 And in that case, the ALJ removed the entire costs of a
6 treatment plant because it wasn't supported. That's
7 what this testimony is about.

8 COMMISSIONER POLMANN: Mr. Schultz, I again
9 would encourage you to stay focused on answering
10 the specific question that was asked.

11 BY MR. SAYLER:

12 Q Also, Mr. Smith asked you if you were familiar
13 with construction projects or costs here in the Keys.
14 Do you recall that?

15 A Yes, sir. He asked me if I was familiar with
16 construction in the Keys.

17 MR. SMITH: I will object, misstates the
18 testimony, it was at the time of filing --

19 COMMISSIONER POLMANN: I am sorry, could you
20 speak up?

21 MR. SMITH: It was at the time of filing his
22 testimony.

23 COMMISSIONER POLMANN: That's your
24 recollection, your question was more specific, is
25 that what you are saying?

1 MR. SMITH: Yes. My concern is he is going to
2 state that he's now looked into it.

3 BY MR. SAYLER:

4 **Q Prior to the filing of your testimony, Mr.**
5 **Schultz, did you have any familiarity with construction**
6 **projects in the Keys, and if so, can you please explain?**

7 A Actually, I did, and I had actually forgotten
8 about this when I was being deposed.

9 MS. MAPP: Commissioner Polmann, I would
10 suggest that what the witness is about to answer is
11 supplementing his direct testimony, as that was not
12 stated in his direct prefiled testimony about any
13 research done of construction projects in the Keys.

14 MR. SAYLER: He is responding to Mr. Smith's
15 question about the construction projects in the
16 Keys at the time of his filing. This is not
17 supplementing his testimony because this is not
18 part of his testimony, if admitted, that would go
19 into the record.

20 MR. SMITH: I just want to be clear, he is now
21 saying he is revising his deposition and his direct
22 testimony.

23 MR. SAYLER: He stated he forgot about a
24 project in the Keys that he worked on, and he is
25 about to explain that for the benefit of these

1 Commissioners, and for yourself, Mr. Smith.

2 COMMISSIONER POLMANN: Well, what's on --
3 what's at issue right now is his direct testimony,
4 and I am not going to allow you to restate
5 Mr. Smith's question, or clarify what Mr. Smith
6 meant in order for you to ask your witness to go
7 back to Mr. Smith's question. I think that's on
8 the record. So I don't understand what you are
9 doing.

10 MR. SAYLER: His question was, as I recall --
11 and Mr. Smith, if you can restate it -- is what
12 experience did he have with construction projects
13 in the Keys at the time he filed his testimony.

14 MR. SMITH: No.

15 COMMISSIONER POLMANN: Mr. Sayler, I am
16 concerned now that you are giving the witness the
17 answer that you're looking for by discussing this.

18 MR. SAYLER: No, sir.

19 COMMISSIONER POLMANN: Well, that's what I
20 think is going on even though that's not your
21 intention.

22 MR. SAYLER: I apologize if that's --

23 COMMISSIONER POLMANN: The more we talk about
24 it, the more it's becoming obvious what the answer
25 is. I can give you the answer that you're looking

1 for the more that we talk about this and I am not
2 the witness. I suggest you might want to move to a
3 different line of questioning.

4 MR. SAYLER: That was the only question I had
5 for him based upon Mr. Smith's voir dire of this
6 witness, is prior to his testimony, did he have any
7 experience for related to construction in the Keys.

8 COMMISSIONER POLMANN: Well, as I stated, what
9 I see at issue is --

10 MR. SAYLER: Excuse me, construction costs. I
11 apologize.

12 COMMISSIONER POLMANN: And I think that's
13 what's on page 12, and that was the point of the
14 motion to strike.

15 MR. SAYLER: He said he is familiar with
16 construction costs. And he's expounding upon that.
17 I don't understand. We are missing something here,
18 sir. I apologize if I am misunderstanding the
19 situation here.

20 Obviously this -- excuse me, I am afraid I am
21 I would be getting into argument if I made the next
22 statement, but --

23 COMMISSIONER POLMANN: I think we will leave
24 it there.

25 MR. SMITH: Would you like us to go to the

1 second issue that we were requesting to be stricken
2 at this juncture?

3 COMMISSIONER POLMANN: That's probably best.

4 FURTHER VOIR DIRE EXAMINATION

5 BY MR. SMITH:

6 Q The second issue is related to pension plans.
7 It's on page 26 of Mr. Schultz's direct testimony to
8 Page 27 of direct testimony, starting on line 13 on page
9 26, ending on line 20 of page 27. And I will read the
10 testimony: "Do you agree with the company's request for
11 a more traditional pension plan?"

12 COMMISSIONER POLMANN: Would you speak up,
13 please?

14 MR. SMITH: I apologize.

15 BY MR. SMITH:

16 Q "Do you agree with the company's request for a
17 more traditional pension plan?"

18 A -- answer: No, I do not. First, companies
19 are replacing traditional pension plans with 401(k)
20 arrangements. It is not appropriate for a public
21 utility to offer gold-plated benefits to its employees
22 so far above and beyond those received by the average
23 ratepayer. Thus, the company should not be allowed to
24 buck the trend and move towards traditional benefit
25 plans.

1 Second, the company has not offered sufficient
2 support for either the claim that its high turnover rate
3 is due to its benefit package or the claim that a
4 pension plan will solve its employee retention problems.
5 KWRU was asked to support the former claim in OPC
6 Request for Production of Documents No. 73. The
7 company's response provided only email exchanges with
8 the project manager at CH2M and employees at FCAA
9 discussing salary ranges, health and vacation benefits
10 and standby time. The information alone does not
11 substantiate the claim that the benefits causing the
12 company's turnover issues.

13 The company was also asked in OPC Request for
14 Production of Documents to No. 72 to support its claim
15 that the proposed traditional pension plan would improve
16 retention and reduce turnover. KWRU's response states
17 that the pension plans for various comparable utilities
18 in the Florida Keys had been reviewed online. However,
19 the fact that KWRU reviewed other company's pension
20 plans does not support its claim that retention and
21 turnover would be improved. The bottom line is that the
22 company's request is both unsupported and inappropriate.

23 The company overlooks the fact that other
24 companies are able to hire and retain employees without
25 a traditional pension plan. If that were not the case,

1 businesses would not be turning away from traditional
2 pension plans. Although the cause of the company's
3 hiring and retention issues is not clear, the company
4 claims in its response to citizens' Interrogatory No. 43
5 that it is due to overtime."

6 So going to that line of questioning, and I
7 will first adopt the voir dire from the last line of
8 questioning in order to save time.

9 MR. SAYLER: Question, he mentions three
10 different reasons in his testimony. Are you doing
11 voir dire on each of those three reasons?

12 MR. SMITH: This is to his qualifications to
13 testify as to pension plans. And so I first
14 adopted his educational background that we've
15 already gone through so that I don't have to repeat
16 it. And I will proceed further.

17 BY MR. SMITH:

18 Q Mr. Schultz, are you a financial advisor?

19 A I am not a financial advisor.

20 Q Mr. Schultz, are you in charge of your
21 company's pension plan?

22 A Our company doesn't have a pension plan. We
23 have a profit sharing plan, and that's a distinguishing
24 difference between what this testimony is all about.

25 Q Mr. Schultz, are you the administrator of your

1 **company's profit sharing plan?**

2 A I administer my own investments in the profit
3 sharing plan. That's part of what we do.

4 **Q Okay. Mr. Schultz, you understand you have an**
5 **administrator of your profit sharing plan, correct?**

6 A Yes, sir.

7 **Q Okay. Do you administer that plan?**

8 A I don't administer the plan myself. No, sir.

9 **Q Okay. Are you licensed as a financial**
10 **advisor?**

11 A I am not licensed as a financial advisor. As
12 indicated, I am an accountant, and accountants deal with
13 pensions all the time.

14 **Q Okay. So you have no licensure to administer**
15 **pension plans, correct?**

16 A I don't have a license to administer a pension
17 plan. No, sir.

18 **Q And you have never been and you have never**
19 **obtained the proper securities license to administer any**
20 **pension plan?**

21 A I -- you don't need a license. I do not have
22 that license that you're talking about. You don't need
23 a license to evaluate pension costs. The company has
24 two witnesses, neither of which are actuaries or
25 licensed pension plan people.

1 Q Okay. Mr. Schultz, you state that you claim
2 that it is a gold-plated pension plan and far above and
3 beyond those received by the average ratepayer. Did you
4 perform any studies of ratepayers' pension plans in the
5 rate -- in the customer area?

6 A I did not perform any studies. I just have
7 knowledge of what type of people live in the area,
8 and --

9 Q Did you contact any ratepayers?

10 A I did not contact any ratepayers. No, sir.

11 Q Okay. Going to the above the average
12 ratepayer, you also discuss other companies are able to
13 hire and retain employees with a traditional pension
14 plan. Did you review the pension plans of the
15 retirement plans of the other utilities in the Florida
16 Keys?

17 A I did not review them, and I am not convinced
18 that the company did. The company just said, we looked
19 at them online.

20 Q Did you hear the testimony earlier from
21 Mr. Johnson --

22 A Exactly, that's what I am referring to.
23 Mr. Johnson said, I reviewed these online --

24 MS. MAPP: I would -- we are getting offtrack
25 of voir dire at this point.

1 MR. SMITH: All right. I would agree.

2 That's all the voir dire I have on the
3 subject.

4 COMMISSIONER POLMANN: Thank you, Mr. Smith.

5 Mr. Saylor, do you have any questions narrowly
6 on this point?

7 MR. SAYLER: Sure.

8 FURTHER EXAMINATION

9 BY MR. SAYLER:

10 Q Do you recall what Mr. Johnson testified
11 yesterday regarding pension plans and accountants?

12 A Yes. Mr. Johnson said that accountants can
13 address pension plans.

14 MS. MAPP: I will interject. We are here
15 discussing the qualifications of Mr. Schultz, not
16 Mr. Johnson.

17 MR. SAYLER: The company -- certainly, I
18 understand what the company's witness testified.

19 BY MR. SAYLER:

20 Q Here's the other question, over the years in
21 your 40 years of experience, how many pension plans have
22 you looked at, reviewed as it relates to costs going
23 into customer rates?

24 A I have evaluated, I am going to say, in excess
25 of 100, because I have been close to over 200 cases, and

1 I -- while I may not look at it in each and every case,
2 I have looked at it in just about, or at least at the
3 minimum, half of the cases I looked at.

4 MR. SMITH: For the record, I am going to
5 object that this is placing direct testimony into
6 the record as to his qualifications and experience.
7 He is not --

8 COMMISSIONER POLMANN: Objection is noted.

9 MR. SAYLER: All right. I don't have any
10 additional questions for our witness --

11 COMMISSIONER POLMANN: Thank you, Mr. Sayler.

12 MR. SAYLER: -- as relates to voir dire.

13 COMMISSIONER POLMANN: Ms. Helton, is there
14 anything else we need to do at this point, or can
15 we take a recess?

16 COMMISSIONER FAY: Mr. Chairman, can I ask a
17 question?

18 COMMISSIONER POLMANN: I don't know if the
19 Commissioners are allowed to ask questions at this
20 point.

21 COMMISSIONER FAY: Okay.

22 MS. HELTON: I think, as the trier of fact, if
23 the Commissioners want to ask a question at this
24 point related to the witness' expertise, I think
25 that would be appropriate.

1 COMMISSIONER POLMANN: Commissioner Fay.

2 COMMISSIONER FAY: Thank you, Mr. Chairman.

3 And to simplify things, my question is
4 probably for Ms. Helton.

5 COMMISSIONER POLMANN: Well, that's a
6 different question.

7 MS. HELTON: I take it back.

8 COMMISSIONER FAY: Just kidding, right.

9 I just -- I think there is an important point
10 of clarification just for us sitting in these
11 seats. Within this process of voir dire, if the
12 testimony is not struck from the record, the
13 Commission has the legal authority to give whatever
14 weight is appropriate to that testimony. And so
15 if, for example, some find it less persuasive, or
16 more persuasive than if the testimony is not
17 struck, we still have the ability to make that
18 determination on our end; is that accurate?

19 MS. HELTON: Absolutely. And that's the case
20 for any time any witness appears on the witness
21 stand, and that's the case where any time you hear
22 competing testimony from witnesses on the witness
23 stand.

24 COMMISSIONER FAY: Okay. Thank you, Mr.
25 Chairman. I appreciate it.

1 COMMISSIONER POLMANN: Thank you,
2 Commissioner.

3 COMMISSIONER CLARK: Pass.

4 COMMISSIONER POLMANN: Okay. I have heard the
5 voir dire questions from the utility and questions
6 from Office of Public Counsel. We have the
7 pleadings, and I am going to take a recess, 10 or
8 15 minutes, or, quite frankly, whatever I need, but
9 that's my target. You can keep track of me. I am
10 going to start the clock for your purposes, and we
11 are in recess.

12 Off the record. Thank you.

13 (Brief recess.)

14 COMMISSIONER POLMANN: We are back on the
15 record.

16 Mr. Sayler.

17 MR. SAYLER: Yes, sir. And I will be very
18 brief.

19 Mr. Kelly would like me to say the following
20 for the record:

21 Before you rule, we would like to make the
22 following proffer for the appellate record
23 regarding Mr. Schultz's testimony on these two
24 topics.

25 Construction: His testimony is not being

1 offered as an expert in constructing buildings, but
2 as a CPA with specialized knowledge in utility
3 rate-making as to the reasonableness of the costs
4 of this construction project.

5 And as to pensions: His testimony is not
6 being offered as an expert in administering
7 pensions, but as a CPA with specialized knowledge
8 in utility rate-making as to the reasonableness of
9 the requested pension costs.

10 Thank you very much.

11 COMMISSIONER POLMANN: Thank you, Mr. Sayler.

12 Okay. We are back, it is 3:38 p.m. Thank you
13 for your patience.

14 We have a motion before us from KWRU --

15 MR. SAYLER: Commissioner Polmann, was my
16 comments on the record? Yes, ma'am. All right,
17 thank you.

18 COMMISSIONER POLMANN: Everything has been
19 moved.

20 COMMISSIONER CLARK: You moved your stacks.

21 COMMISSIONER POLMANN: Okay. I have read the
22 pleadings. I have heard the voir dire here this
23 afternoon. I have taken advice of counsel, and I
24 am prepared to rule. My ruling is as follows:

25 As I mentioned earlier when we took up the

1 voir dire, I have separated these into two separate
2 items.

3 On the first point, regarding cost per square
4 foot, my ruling is to strike that portion of
5 testimony related to costs per square foot. This
6 is found at page 12, lines 14 through 25, in
7 Witness Schultz's direct testimony.

8 On the second point, related to pension plan,
9 that portion of testimony related to pension plans
10 is found on page 26, lines 13 through 25, and page
11 27, lines one through 20 of the prefiled direct
12 testimony. I will allow that to be included in the
13 record. And the Commission will give it the weight
14 that it is due.

15 MR. SMITH: Thank you.

16 COMMISSIONER POLMANN: Mr. Sayler, you may
17 proceed with your witness with a brief summary.

18 MR. SAYLER: Yes, sir. As it relates to the
19 construction costs --

20 COMMISSIONER POLMANN: Speak up, please.

21 MR. SAYLER: Excuse me.

22 As it relates to the construction costs that
23 you ruled to be struck, we would like to preserve
24 and proffer that for purposes of appeal, if any.

25 And with your ruling, we would like the

1 remainder of his testimony entered into the record
2 as though read. And I believe you ruled in our
3 favor on the pension costs, is that correct?

4 COMMISSIONER POLMANN: Yes. We are striking
5 only that portion I identified by page and line
6 number, which relates to cost per square foot.

7 MR. SAYLER: Thank you. Someone was
8 whispering into my ear when you were making the
9 ruling. I apologize.

10 COMMISSIONER POLMANN: Okay. Now, you would
11 like to enter direct filed testimony?

12 MR. SAYLER: Yes, sir, his prefilled direct
13 testimony pages -- well, all of it with the
14 exception of the part on page 12, lines 14 through
15 25 that you struck, but we would like to proffer
16 that separately for purposes of appeal, if any.

17 COMMISSIONER POLMANN: Yes. And your
18 exhibits, which were identified in the
19 comprehensive list, we will address those later.

20 MR. SAYLER: Yes, sir.

21 (Whereupon, prefilled direct testimony with
22 errata sheet was inserted.)

23

24

25

ERRATA SHEET

WITNESS: Helmuth W. Schultz, III

The following table contains the corrected errata in his prefiled testimony and Exhibit HWS-1:

<u>Page</u>	<u>Line</u>	<u>Original</u>	<u>Revision</u>
Page 8	Line 11	\$22,586	\$29,281
Page 8	Line 12	\$897,557	\$933,307
Page 9	Line 22	B-3	B-4
Page 16	Line 3		Insert "\$" before 50,811
Exhibit HWS-1, Schedule B-1	Line 28	3,127,928	2,474,956
Exhibit HWS-1, Schedule B-1	Line 29	6,346,024	5,693,052

1 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA PUBLIC**
2 **SERVICE COMMISSION?**

3 A. Yes, I have previously testified before the Florida Public Service Commission (“FPSC” or
4 “Commission”).

5

6 **Q. HAVE YOU PREPARED AN APPENDIX DESCRIBING YOUR**
7 **QUALIFICATIONS AND EXPERIENCE?**

8 A. Yes. I have attached an Appendix which is a summary of my regulatory experience and
9 qualifications. In addition, I have attached Exhibit HWS-1, which contains my schedules,
10 and Exhibit HWS-2, which is a composite exhibit containing discovery responses and other
11 documents I reference in my testimony.

12

13 **Q. ON WHOSE BEHALF ARE YOU APPEARING?**

14 A. Larkin was retained by the Florida Office of Public Counsel (“OPC” or “Citizens”) to
15 review the rate request of K W Resort Utilities Corp. (“KWRU” or “Company”).
16 Accordingly, I am appearing on behalf of the OPC of the State of Florida.

17

18 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

19 A. I am presenting OPC's overall recommended revenue requirement in this case. I also
20 sponsor most of the OPC's recommended adjustments to the Company's proposed rate base
21 and operating income.

22

23 **Q. ARE YOU INCORPORATING ANY RECOMMENDATIONS OF OTHER OPC**
24 **WITNESSES?**

1 A. Yes. Andrew Woodcock has made recommendations regarding KWRU's requested pro
2 forma plant additions that I am incorporating into my testimony.

3

4 **II. KWRU REQUESTED REVENUE INCREASE**

5

6 **Q. PLEASE DESCRIBE THE COMPANY'S REQUESTED INCREASE IN**
7 **REVENUES.**

8 A. The Company initially proposed a revenue increase of \$1,349,690 which is a 57.9%
9 increase on its current rates (Company Schedule B-2). MFR revisions filed on December
10 12, 2017 and December 13, 2017 continued to reflect an increase of \$1,349,690. On
11 February 19, 2018, the Company submitted a third¹, revised Schedule B-8 that reflected a
12 reduction to Operations and Maintenance ("O&M") expenses from \$2,533,058 to
13 \$2,520,930. I am not aware of a subsequent filing of Schedule B-2 to reflect this change
14 and the impact to the Company's requested revenue increases.

15

16 **III. ORGANIZATION OF TESTIMONY**

17

18 **Q. HOW WILL YOUR TESTIMONY BE ORGANIZED?**

19 A. In Section IV, I present the overall financial summary for the base rate change, showing
20 the revenue requirement decrease for the test year ended June 30, 2017 as recommended
21 by OPC. In Section V, I discuss my proposed adjustments to rate base. In section VI I
22 discuss my adjustments to operating income. In Section VII, I discuss the capital structure.
23 Exhibit HWS-1 presents the schedules and calculations in support of the test year ended
24 June 30, 2017 revenue requirement. Exhibit HWS-2 is a compilation of discovery
25 responses referenced in my testimony.

¹ The page submitted in Document No. 01510-2018 indicated Second Revised; it is the third revision submitted by KWRU.

1 **IV. OVERALL FINANCIAL SUMMARY**

2

3 **Q. WHAT IS THE JUNE 30, 2017 BASE RATE REVENUE REQUIREMENT**
4 **DEFICIENCY OR EXCESS FOR KWRU?**

5 A. As shown on Exhibit HWS-1, Schedule C-1, Line 11, the OPC's appropriate adjustments
6 in this case result in a recommended revenue increase for KWRU for the June 30, 2017
7 test year of approximately \$701,267. This is \$648,423 less than the base rate revenue
8 increase of \$1,349,960 million requested by KWRU in its filing.

9

10 **Q. PLEASE DISCUSS THE EXHIBIT YOU PREPARED IN SUPPORT OF YOUR**
11 **TESTIMONY AS IT PERTAINS TO THE JUNE 30 2017 TEST YEAR.**

12 A. Exhibit HWS-1, consists of Schedules A, A-1, B, B-1 through B-6, C-1 through C-16,
13 and D.

14

15 **Q. WHAT IS SHOWN ON SCHEDULE A?**

16 A. Schedule A presents the revenue deficiency for the June 30, 2017 test-year, giving effect
17 to all of the adjustments I am recommending in this testimony, along with the impacts of
18 the recommendations made by OPC witness Andrew Woodcock.

19

20 **Q. WHAT IS SHOWN ON SCHEDULE B?**

21 A. Schedule B presents OPC's adjusted rate base and identifies the adjustments impacting rate
22 base that are recommended by OPC witnesses in this case. Schedules B-1 through B-6
23 provide supporting calculations for these adjustments.

1 **Q. WHAT IS SHOWN ON SCHEDULE C-1?**

2 A. OPC's adjusted net operating income is shown on Schedule C-1, page 1. The adjustments
3 to net operating income are listed on Schedule C-1, page 2. Schedules C-2 through C-16
4 provide supporting calculations for these adjustments.

5

6 **Q. WHAT IS SHOWN ON SCHEDULE D?**

7 A. Schedule D presents OPC's recommended capital structure and overall rate of return.

8

9 **Q. WOULD YOU PLEASE DISCUSS EACH OF YOUR SPONSORED**
10 **ADJUSTMENTS TO KWRU'S FILING?**

11 A. Yes, I will address each adjustment I am sponsoring below.

12

13 **V. RATE BASE**

14 Working Capital

15 **Q. WHAT IS THE CASH BALANCE PORTION OF THE COMPANY'S REQUEST**
16 **FOR WORKING CAPITAL?**

17 A. The Company has included a cash balance of \$911,826 in working capital. This is 25% of
18 its annual requested revenue requirement and represents a significant and excessive
19 increase of \$593,848 over the amount approved in the Company's most recent rate case.

20

21 **Q. WHY IS IT INAPPROPRIATE TO HAVE AN EXCESSIVE AMOUNT OF CASH**
22 **IN WORKING CAPITAL?**

23 A. If KWRU has accumulated a significant amount of cash that is not readily needed to operate
24 the Company on a daily basis, it should find alternative uses for that cash. It could invest
25 that cash in an interest-bearing account, pay off debt, or use that money for business

1 purposes. A well-run company would not include almost a million dollars in a non-interest-
2 bearing cash account.

3

4 **Q. DID THIS ISSUE ARISE IN KWRU'S PRIOR RATE CASE?**

5 A. Yes. In the prior case, Docket No. 20150071-SU, the Company requested a cash balance
6 of \$877,289 in working capital. This was an increase of \$666,869 over the amount allowed
7 in the Company's previous case. This large increase was rejected by the Commission as
8 indicated on page 32 of Order No. PSC-17-0091-FOF-SU in Docket No. 20150071-SU
9 issued March 13, 2017:

10 In its filing, KWRU's working capital allowance included cash of \$877,289.
11 OPC witness Merchant testified that the requested test year cash balance
12 was excessive and represented an anomaly for the Utility. She specifically
13 cited comparisons to the cash balance approved in KWRU's last rate case,
14 which was \$666,869 lower, and the cash balance reflected in its 2015
15 Annual Report, which was \$515,752 lower. Witness Merchant asserted that
16 building a major plant expansion did not support the need for such a large
17 balance of cash. The 13-month average cash balance based on available
18 data from 2016 during the time frame of activity on the pro forma plant
19 expansion is \$317,978. We believe this balance is more reflective of
20 ongoing Utility operations and cash shall be decreased by \$559,311.

21

22 As you can see, the Commission rejected KWRU'S requested increase of \$666,869 to the
23 cash balance in working capital in 2017 as excessive. In the current docket, the Company
24 is now requesting a substantial increase of \$593,848, which is again not supported and
25 should be rejected. The cash balance in working capital should be held to the amount
26 approved by the Commission less than a year ago in 2017.

27

28 **Q. HAS THE COMMISSION MADE OTHER ADJUSTMENTS TO THE CASH**
29 **BALANCE PORTION OF WORKING CAPITAL IN OTHER CASES?**

30 A. Yes, it has. In a rate case in Charlotte County, the Commission addressed the fact that the
31 utility included a large cash balance in its working capital calculation. The Commission

1 stated that the utility had not sufficiently demonstrated the need for the large cash balance
2 in an account that was not earning interest. The Commission found that an amount equal
3 to 4 percent of the utility's total revenues is sufficient for the utility to meet its financial
4 obligations.² Applying this same methodology for KWRU would result in a cash balance
5 of \$147,289, based on the Company's requested revenue requirement.

6

7 **Q. WHAT IS YOUR ADJUSTMENT TO THE CASH BALANCE PORTION OF**
8 **WORKING CAPITAL?**

9 A. While the cash balance could be reduced as low as \$147,289, I believe that it is reasonable
10 in this case to default to the amount approved by the Commission in the most recent rate
11 case for KWRU and to hold the balance to the previous amount of \$317,978. This reflects
12 a reduction of \$593,848 to the Company's request.

13

14 **Q. ARE THERE ANY ADDITIONAL WORKING CAPITAL ADJUSTMENTS?**

15 A. Yes, there are. I recommend excluding what is identified as special deposits (FPSC Escrow
16 Accounts) because I understand these are ratepayer funds in escrow and they are earning
17 interest. Therefore, ratepayers should not be required to pay a return on these funds. An
18 adjustment of \$281,123 should be made.

19

20 **Q. DO YOU HAVE ANOTHER ADJUSTMENT TO WORKING CAPITAL?**

21 A. Yes, I believe that the Company has overstated the average balance for deferred rate case
22 expense for the last rate case. In Commission Order No. PSC-2017-0091-FOF-SU, the
23 Commission allowed rate case expense in the amount of \$430,828. However, the 13-month

² See Order No. PSC-96-0663-FOF-WS, issued May 13, 1996, in Docket No. 19950336-WS, In re: Application for rate increase in Charlotte County by Rotonda West Utility Corporation.

1 average for rate case expense as shown on Schedule A-18 Page 2 of 2 includes amounts
 2 that exceed this amount. The 13-month average should not include any amounts exceeding
 3 the Commission's previously allowed expense. The chart below shows where I have
 4 capped the monthly amounts and the correct balance. This results in a decrease to working
 5 capital allowance of \$29,055.

6

2015 Deferred Rate Case Expense			
	MFR Schedule A-18	OPC Balance	
June 2016	318,000	318,000	
July 2016	349,888	349,888	
August 2016	383,326	383,326	
September 2016	414,370	414,370	
October 2016	492,439	430,828	
November 2016	550,115	430,828	
December 2016	430,828	430,828	
January 2017	432,728	430,828	
February 2017	444,417	430,828	
March 2017	478,600	430,828	
April 2017	484,129	430,828	
May 2017	484,339	421,852	
June 2017	430,828	413,064	
	438,001	408,946	(29,055)
Order No. PSC-2017-0091-FOF-SU issued March 13, 2017			
Order capped rate case expense at \$430,828			

7

8

9 **Q. WHAT OTHER ADJUSTMENTS ARE YOU RECOMMENDING?**

10 A. As will be discussed later I am recommending changes to the amount of hurricane costs to
 11 be recovered. This reduces the unamortized hurricane costs by \$22,586. My overall
 12 recommended reduction to working capital is \$897,557. This adjustment is shown on
 13 Exhibit HWS-1, Schedule B-3

1 Service Truck with Crane

2 **Q. WHAT HAS THE COMPANY INCLUDED AS PRO FORMA PLANT IN THE**
3 **FILING?**

4 A. On page 9 of KWRU Christopher A. Johnson's testimony, he states the Company has
5 included \$74,174 for a used service truck with crane.

6
7 **Q. WHY ARE YOU MAKING AN ADJUSTMENT TO THE COST OF THIS TRUCK?**

8 A. I am making the adjustment because the Company did not spend \$74,174. The Company's
9 response to Citizens' Interrogatory No. 29 states:

10 KWRU was ultimately able to purchase a suitable truck for \$40,163.02,
11 excluding tax, title, license fees, and necessary improvements and repair
12 parts for safe operation.

13 ...
14 The total cost spent to date is \$43,177.94, and when the remaining items are
15 purchased the total cost is anticipated to be approximately \$44,777.

16

17 Therefore, ratepayers should only pay \$44,777 for this truck.

18

19 **Q. WHAT IS YOUR ADJUSTMENT?**

20 A. The adjustment is to remove the difference between the estimate and the actual cost of the
21 truck, a reduction of \$29,397. This adjustment is shown on Exhibit HWS-1Exhibit HWS-
22 1, Schedule B-3.

1 Cherrington Sand Sifter

2 **Q. PLEASE EXPLAIN YOUR ADJUSTMENT FOR THE SAND SIFTER.**

3 A. On page 12 of Witness Johnson's testimony, he states the Company's Cherrington Sand
4 Sifter needed to be replaced as a result of Hurricane Irma damage and included an estimate
5 of \$44,300.

6
7 **Q. DID THE COMPANY PROVIDE THE ACTUAL COST OF THE SAND SIFTER?**

8 A. Yes, it did. The response to Citizens' Interrogatory No. 30 states that the actual cost was
9 \$43,110.16.

10

11 **Q. WHAT IS YOUR ADJUSTMENT?**

12 A. The adjustment is to reduce the Company's Pro Forma adjustment by \$1,189.84 (\$44,300
13 - \$43,110.16) to reflect the actual cost paid for the sand sifter. This adjustment is shown
14 on Exhibit HWS-1, Schedule B-5.

15

16 New Office Building

17 **Q. HAS THE COMPANY REQUESTED RECOVERY OF FUNDS FOR A NEW**
18 **OFFICE BUILDING?**

19 A. Yes, it has. Pages 9-10 of Witness Johnson's testimony describe the storm damage to the
20 Company's previous office and provide details about the new office. The requested new
21 office is an approximately 1,200 square foot modular building with a total estimated cost
22 of \$288,000. That equates to \$240 per square foot.

23

24 **Q. DID THE COMPANY PROVIDE DOCUMENTATION SUPPORTING THE NEW**
25 **MODULAR OFFICE BUILDING?**

1 A. In Exhibit CAJ-21 to Mr. Johnson's testimony, the Company provided a five-page contract
2 between KWRU and PP Keys 2016, LLC which states the office will be installed and shall
3 be ready to occupy by March 31, 2018. However, based upon subsequent responses by
4 KWRU, that is not going to happen.

5

6 **Q. ARE YOU FAMILIAR WITH THE COMPANY PP KEYS 2016, LLC?**

7 A. No, I am not. In fact, I looked up this company on the State of Florida Division of
8 Corporations website (Sunbiz.org) and could not find the company name PP Keys 2016,
9 LLC as being registered in the state of Florida. There are other names with some similarity
10 but this specific company name could not be found.

11

12 **Q. DO YOU OBJECT TO THE COMPANY'S REQUEST FOR A NEW BUILDING?**

13 A. No, I do not object. The Company needs a new office. The issue is with the cost of the
14 new building. The Company's request of \$288,000 is excessive and unsupported. OPC
15 requested the construction documents for the office project (KWRU's Response to
16 Citizens' Request for Production of Documents No. 39) and the utility responded that the
17 construction drawings have not been completed due to requested changes to the plans by
18 KWRU. Based on this response, it appears that the utility is still designing its new office
19 and that the requested pro forma amount may change. Subsequently the Company provided
20 a drawing as an update to the response but the drawing does not provide sufficient
21 justification that the building will be in service within the rate year or that the price is
22 reasonable. In fact, the updated response to Citizens' Request for Production of Documents
23 No. 39 states that "To date, the specific unit sought has not been approved".

1 **Q. DID THE COMPANY UTILIZE A BIDDING PROCESS FOR THIS PROJECT?**

2 A. No, it did not. The Company's responses to Citizens' Interrogatory Nos. 118 and 90
3 indicate that a bidding process was not used in selecting a builder for the new office.

4
5 **Q. WHAT IS THE CURRENT STATUS OF THE PROJECT?**

6 A. The Company's response to Citizens' Interrogatory No. 75 states:

7 ...there is a backlog in the availability of manufactured homes/offices
8 across the country, as a result of the impacts of Hurricane Harvey and
9 Hurricane Irma increasing demand. As such, there is not a date certain when
10 KWRU will receive its modular permanent office. KWRU is working
11 diligently to ensure the quickest delivery of an acceptable unit, but the
12 timetable is still uncertain.

13 ~~Lines 14-25 stricken per Commissioner Polmann's ruling (DK)~~

14 ~~Q. WHY IS THE COMPANY'S REQUEST EXCESSIVE?~~

15 ~~A. While I am not a contractor, I have familiarity with construction projects and the costs in~~

16 ~~reviewing project costs based upon my 40 plus years of experience in utility accounting. A~~

17 ~~cost of \$240 per square foot is high. An online review of construction costs indicated costs~~

18 ~~for office buildings (2-4 stories) of \$140 per square foot to \$240 per square foot. The \$240~~

19 ~~per square foot is in New York City. Another cost estimate was for a 2,324 square foot~~

20 ~~home in Broward County. That cost was \$137 per square foot. On another site, I located~~

21 ~~a commercial construction cost calculator and requested an estimate for a 1200 square foot~~

22 ~~building in Miami and in West Palm Beach. The calculator came up with a cost of \$83 per~~

23 ~~square foot in Miami and \$80 per square foot in West Palm Beach. Clearly, the different~~

24 ~~cost estimates show the Company's \$240 per square foot is excessive, even for Key West.~~

25 ~~Ratepayers should not foot the bill for imprudent spending by the Company.~~

1 **Q. HASN'T THE COMPANY INDICATED COSTS ARE HIGHER IN KEY WEST**
 2 **FLORIDA?**

3 A. In response to Citizens' Interrogatory No. 118, the Company stated the cost of living and
 4 labor in the Florida Keys is higher than anywhere else in the state of Florida. The problem,
 5 however, is the Company did not get any other bids other than estimates to repair the old
 6 office. The repairs were approximately one-half of constructing a new structure.

7

8 **Q. WHAT IS YOUR ADJUSTMENT?**

9 A. The adjustment is to remove all costs at this time, a reduction of \$288,000. The Project is
 10 still in planning and there is no assurance the modular unit will be in place during the
 11 projected test year. In addition, KWRU should use prudent business practices to seek
 12 competitive bids, and consider whether it is more beneficial to construct a new building or
 13 purchase and install a modular building. This adjustment is shown on Exhibit HWS-1,
 14 Schedule B-6.

15

16 **Q. ARE THERE ANY OTHER ADJUSTMENTS TO PLANT?**

17 A. Yes. OPC witness Andrew Woodcock is recommending the following:

18

Project	CAJ Exhibit	Requested Amount	Recommended Amount	Adjustment
Rehabilitation of Wastewater Treatment Plants	CAJ-9	\$1,104,763.75	\$983,483	(121,281)
WWTP Generator Replacement	CAJ-12	\$321,005.85	\$214,145	(106,861)
Lift Station L2A Replacement	CAJ-11	\$146,393	\$123,620	(22,773)
Portable Generator	CAJ-14	\$83,470	\$0	(83,470)

1 Accumulated Depreciation

2 **Q. WITH THE ABOVE ADJUSTMENTS TO PLANT, WHAT IS THE IMPACT ON**
3 **ACCUMULATED DEPRECIATION?**

4 A. Accumulated Depreciation will decrease by \$16,337 as shown on Exhibit HWS-1,
5 Schedule B-2, Page 1 of 3.

6 **Q. SINCE ACCUMULATED DEPRECIATION IS ADJUSTED IS THERE ALSO A**
7 **FLOW THROUGH ADJUSTMENT TO DEPRECIATION EXPENSE**
8 **ASSOCIATED WITH THE PLANT ADJUSTMENT?**

9 A. Yes, there is. The adjustment to accumulated depreciation for Pro Forma Plant Additions
10 as determined by KWRU was based on 50% of the added depreciation expense. Using that
11 as a factor I am reducing depreciation expense by twice the accumulated depreciation
12 adjustment of \$16,337 for a reduction of \$32,674.

13
14 **Q. DOES THAT RESOLVE ALL YOUR CONCERNS WITH ACCUMULATED**
15 **DEPRECIATION AND DEPRECIATION EXPENSE?**

16 A. No it does not. In analyzing the various detail for plant, accumulated depreciation and
17 depreciations expense it was discovered that the Company's accounting records and the
18 adjustment detail have variances. In the KWRU filing information is a worksheet labeled
19 Plant Additions. This worksheet summarizes the Pro Forma additions to plant, the
20 depreciation and accumulated depreciation. The worksheet also summarizes the plant
21 added during the test year and shows the calculation of the annualization to accumulated
22 depreciation and depreciation expense. The first issue is, this work sheet and the KWRU
23 trial balance are not consistent. The Plant Additions worksheet shows adjustments of
24 \$3,824,162 to plant account 354.4 Structures and Improvements, \$78,652 to plant account

1 364.2 Flow Measuring Devices, \$1,591,112 to account 380.4 Treatment and Disposal
2 Equipment and \$100,100 to account 381.4 Plant Sewers. The worksheet labeled Trial
3 Balance does not show any increase in 2017 for the plant account 364.2 Flow Measuring
4 Devices, does not show an increase of \$1,591,112 to account 380.4 Treatment and Disposal
5 Equipment and it does not show an increase to account 381.4 Plant Sewers. According to
6 the Trial Balance worksheet all the amounts are included in account 354.4 Structures and
7 Improvements. Since each of the accounts are depreciated over a different life there could
8 be an impact on depreciation expense and the annualization adjustment made by KWRU.

9

10 **Q. ARE YOU RECOMMENDING AN ADJUSTMENT BASED ON THE**
11 **CLASSIFICATION OF THE PLANT?**

12 A. No I am not. I am assuming the KWRU books are improperly reflecting the plant and the
13 filing is reflecting the proper distribution. However, I am recommending an adjustment to
14 the KWRU annualization adjustment because of another accounting inconsistency.

15

16 **Q. WHAT IS THE ACCOUNTING INCONSISTENCY THAT YOU ARE**
17 **RECOMMENDING BE ADJUSTED?**

18 A. The Plant Additions worksheet determined the annualization adjustment by prorating the
19 plant additions annual depreciation expense of \$250,145 based on when the plant is listed
20 as going into service. The annualization adjustment by KWRU was \$185,311. This would
21 mean that KWRU assumed recorded depreciation of \$64,834 on its books in 2017
22 associated with plant additions in 2017. In reviewing the depreciation expense for the test
23 year July 2016 through June 2017, I discovered that the assumptions by KWRU are not
24 consistent with what was recorded in the test year. It was noted that from July to December
25 2016 the monthly depreciation expense was \$32,835 or \$197,010 for the six months of

1 2016. Beginning in 2017 the depreciation expense changed first increasing to \$50,867 in
2 January 2017 and then from February 2017 through June 2017 the depreciation expense
3 was 50,811. The increase could only be attributed to plant additions in 2017. The total
4 depreciation for the six months of 2017 was \$304,922 which means there was an
5 incremental increase of \$107,912 (\$304,922 - \$197,010) associated with changes to plant,
6 as reflected on the books of KWRU. As discussed above the annualization adjustment
7 calculated by KWRU assumed KWRU only recorded depreciation of \$64,834 on its books
8 in 2017. This inconsistency means depreciation expense is overstated by \$43,078
9 (\$107,912 - \$64,834) and using the 50% assignment to accumulated depreciation the
10 adjustment to accumulated depreciation would be \$21,539. The calculation of the
11 depreciation reduction of \$43,078 and the reduction to accumulated depreciation of
12 \$21,539 are reflected on Exhibit HWS-1, Schedule B-2, Page 2 of 3.

13

14 Retirements

15 **Q. HAS THE COMPANY REFLECTED THE APPROPRIATE RETIREMENTS**
16 **RELATED TO THE REQUESTED PRO FORMA PLANT ITEMS?**

17 A. No. The Company has not reflected appropriate retirements for the following items:
18 Chlorine Contact Chamber, Lift Station, Generator, and New Office.

19

20 **Q. WHY SHOULD THEY BE REFLECTED AS RETIREMENTS?**

21 A. Each of the items is being replaced. As such, these original assets should be retired.

22

23 **Q. AREN'T THE ITEMS STILL IN USE?**

24 A. According to the response to Citizens' Interrogatory No. 71, the four items are still in use.
25 However, the Company does not intend for their continued use. Once the replacements are

1 in use, the current items will no longer be necessary. Further, the Company is requesting
2 funds for their replacements. It is inappropriate and unfair to ratepayers to include the costs
3 for replacements without reflecting the retirements of the original items.

4

5 **Q. WHAT IS YOUR RECOMMENDED ADJUSTMENT?**

6 A. The adjustment reducing depreciation expense \$56,672 is to reflect the depreciation
7 associated with the retirement of the Chlorine Contact Chamber, Lift Station and
8 Generator. The adjustments are shown on Exhibit HWS-1, Schedule B-2, Page 3 of 3 and
9 are based on Commission precedent that uses 75% of the replacement value as the amount
10 for retired plant.

11

12 **Q. WOULD EXPLAIN WHY YOU DID NOT ADJUST FOR THE OFFICE**
13 **DEPRECIATION AND REFLECT THE RETIREMENTS TO PLANT AND**
14 **ACCUMULATED DEPRECIATION?**

15 A. Yes. The Office depreciation was not reflected because I have recommended the new
16 office be excluded from rates. I have not reflected the retirements to plant and accumulated
17 depreciation because they would offset each other so the impact on rate base would be zero.

18

19 **Q. PLEASE SUMMARIZE THE VARIOUS ADJUSTMENTS TO ACCUMULATED**
20 **DEPRECIATION AND DEPRECIATION EXPENSE.**

21 A. The specific recommended plant disallowance reduced depreciation expense and
22 accumulated depreciation \$32,674 and \$16,337, respectively. The adjustment for the error
23 in annualization of depreciation reduced depreciation expense and accumulated
24 depreciation \$43,078 and \$21,539 respectively. The adjustment associated with
25 retirements reduces depreciation expense \$56,672. The total recommended adjustments to

1 depreciation expense and accumulated depreciation are \$132,424 (Exhibit HWS-1,
2 Schedule C-1) and \$37,876 (Exhibit HWS-1, Schedule B), respectively.

3

4 **Q. PLEASE SUMMARIZE YOUR RATE BASE ADJUSTMENTS.**

5 A. The utility proposed an adjusted average rate base of \$7,043,724. I recommend adjusting
6 this by \$1,548,403, resulting in a total rate base of \$5,495,321.

7

8 **VI. NET OPERATING INCOME**

9 Replacement Phone System

10 **Q. WHAT AMOUNT HAS THE COMPANY INCLUDED FOR THE REPLACEMENT**
11 **PHONE SYSTEM?**

12 A. Witness Johnson discusses the request for a replacement phone system on pages 8-9 of his
13 testimony. The Company has requested \$15,000 for a replacement phone system and
14 \$1,053.88 in monthly costs.

15

16 **Q. WHY DID THE COMPANY REQUEST A NEW PHONE SYSTEM?**

17 A. On page 8 of his testimony, Mr. Johnson explains why the Company decided a new phone
18 system was necessary as follows:

19 After Hurricane Irma the Utility's voice and data communications were
20 knocked out completely. Comcast provides this service to the Utility via
21 co-axial cable run aerially. The service still does not operate. Comcast has
22 no estimated time frame for restoring service. The Utility has elected to
23 switch to AT&T as its primary service provider as AT&T has proven more
24 reliable after Hurricane Irma and Hurricane Wilma, and Comcast is not
25 operating the existing service.

26

27 **Q. WHAT IS YOUR ISSUE WITH THE REPLACEMENT PHONE SYSTEM?**

28 A. The issue is that KWRU is requesting ratepayers to pay for the new replacement phone
29 system and also to continue paying for the existing phone system.

1 **Q. WHY WOULD THE COMPANY NEED TWO PHONE SYSTEMS?**

2 A. Page 9 of Mr. Johnson's testimony states "...at this juncture, no phone service has been
3 proven to be completely reliable and our utility plant SCADA system is controlled through
4 the internet requiring redundancy."

5

6 **Q. DO YOU AGREE THAT REDUNDANCY IS NECESSARY?**

7 A. I do not. In my forty plus years of experience in ratemaking, I have not encountered a
8 utility requesting a phone system redundancy such as in this case. This is an unnecessary
9 and unreasonable cost to ratepayers to pay for two separate phone systems.

10

11 **Q. WHAT IS YOUR ADJUSTMENT FOR THE NEW PHONE SYSTEM?**

12 A. The adjustment is to remove \$4,742.48 paid to AT&T and Comcast during the test year.
13 The chart below is an extract from KWRU's Response to OPC Request for Production of
14 Documents No. 4 which shows all the charges to AT&T and Comcast for the period July
15 1, 2016 through June 30, 2017. Schedule B-3, Line 31 includes \$12,647 for the cost of the
16 new telephone system. The \$12,647 is supported through CAJ-15 which annualizes the
17 new monthly cost of \$1,053.88. Because the Company reflected the annual cost of the new
18 service the historic test year amounts should be removed to avoid a duplication of the
19 annual expense. The adjustment is shown on Exhibit HWS-1, Schedule C-2.

Test Year Telephone Expense					
7750830 Telephone & Fax					
	07/04/2016	ATT7-4-16	AT&T		340.99
	08/04/2016	ATT8-4-16	AT&T		344.40
	08/16/2016	CB8-22-16	Comcast	High speed internet (\$164.90/month). Plus one time fee of \$199 for Install fee on 8/16/2016. (AT&T internet was cancelled).	379.95
	09/27/2016		AT&T	Sept 2016 phone bill	340.79
	10/04/2016	ATT10-18-16	AT&T	The bill showed an amount due of double what we pay. Called AT&T and they are crediting our account \$438.46 (10-18-16). See backup in AT&T vendor file for additional information.	230.79
	10/12/2016	CB10-18-16	Comcast	High speed internet	166.03
	11/12/2016	CB11-17-16	Comcast	High speed internet	166.03
	12/21/2016	ATTFINAL	AT&T	Final bill from AT&T. Adjustments all in from cancellation back in November. Two credit checks in the amount of \$98.02 and \$75.49 have been sent to KWRU.	531.07
	01/12/2017	CB1-30-17	Comcast	High speed internet and phone service. Added new service for phones - Comcast billed KWRU incorrectly and also never sent an invoice for the month of December. They are crediting our account on our next bill.	376.67
	02/12/2017	CB3-3-17	Comcast	Amount is high due to never sending us a bill in December (plus new installation charges that were incurred in December), and prorating and adding charges from November. Now, the monthly bill for internet/phone service should be approx \$298.00.	709.59
	03/12/2017	CB3-12-17	Comcast	High speed internet and phones	288.87
	04/12/2017	CB4-12-17	Comcast	High speed internet and phones	289.10
	05/12/2017	CB5-12-17	Comcast	High speed internet and phones	289.10
	06/12/2017	CB6-12-17	Comcast	High speed internet and phones	289.10
				Total Test Year AT&T and Comcast	4,742.48

1

2

Salaries and Wages – Employees

3

Q. WHAT IS THE COMPANY’S REQUEST FOR SALARIES AND WAGES?

4

A. As shown on MFR Schedule B-8, the Company is requesting \$752,549 in the test year for Salaries and Wages – Employees. This is a 46.5% increase, or \$238,881 over the 2016 amount of \$513,668. In fact, the request represents a substantial increase over all of the five previous years as shown in the chart below utilizing information from the Company’s annual reports.

8

Salary & Wages - Employees				
2012	2013	2014	2015	2016
392,632	421,904	449,108	427,879	513,668

9

1 **Q. HOW DOES THE COMPANY SUPPORT THIS INCREASE?**

2 A. On pages 12-13 of his testimony, Witness Johnson discusses what he considers to be an
3 error in the expenses approved by the Commission for employees in the last rate case. He
4 states the following:

5
6 In the 2014 rate case, Docket No. 150071-U, the Utility had 9.5 positions
7 consisting of two officers and 7.5 staff positions prior to the expansion and
8 conversion to operations at Advanced Wastewater Treatment Standards. As
9 part of the 2014 rate case, the utility requested four additional employees be
10 approved, two operators, one mechanic and one administrative position, be
11 approved to operate the third plant and the entire system at AWT. The
12 utility provided pro forma expenses for these employees, which were
13 approved except for approximately \$2,000.00. However, the pro forma
14 employee additions were not added to the 9.5 positions based on the
15 annualized salary for the existing staff positions plus the pro forma
16 employee positions. Instead, the order approving the additional positions
17 took the employee expenses for the prior twelve months and added the pro
18 forma costs to these amounts.

19
20 This was in error because during the prior twelve months there were several
21 vacancies which dramatically reduced the total employee expenses
22 throughout the year. The reduced staff for extended periods led to
23 additional turnover due to employees being overworked.
24

25 **Q. DO YOU AGREE WITH MR. JOHNSON'S ASSERTION THAT THE ORDER**
26 **WAS IN ERROR?**

27 A. No, I do not. The Order was not in error because the requested additions did not
28 materialize. KWRU's exhibit CAJ-23 shows there are currently nine employees on staff.
29 The 2014 employee wages were \$449,108. With 7.5 staff positions that equates to \$59,881
30 per employee. Assuming no increases in wages, the 2016 wages of \$513,668 would equate
31 to 8.6 employees. As noted in the Company testimony above, 4 employees were requested;
32 however, as of 2016, only the equivalent of 1 was added.

33

34 It is common for companies to request an increase for additional employees without taking
35 into account current vacancies and/or employee attrition. For instance, a company may

1 state that it currently has 10 positions and is adding two new positions and request total
2 compensation for 12 employees. However, if that company continues to have two unfilled
3 positions, compensation for 10 employees is what is actually warranted. If the company
4 were to lose another employee and fail to replace that employee, only 9 employees should
5 be reflected. Vacancies are part of the reality of utility employment that must be factored
6 into the equation.

7

8 **Q. DO VACANCIES PLAY A ROLE IN THE CURRENT PROCEEDING?**

9 A. Yes, they do. Vacancies should always be considered; however, in the current case they
10 play an even more important role.

11

12 **Q. PLEASE EXPLAIN.**

13 A. KWRU's filing supports the fact that vacancies are an issue for the Company. As stated
14 above in the excerpt from Mr. Johnson's testimony, the Company had several vacancies
15 which led to even more turnover.

16

17 **Q. HAS THE COMPANY CONTINUED TO HAVE TROUBLE WITH VACANCIES?**

18 A. Yes, it has. The Company's response to Citizens' Interrogatory No. 42 states that KWRU
19 had a number of vacancies in 2015, 2016, and 2017 despite filling a number of positions.

20 Further, on page 13 of his direct testimony, Mr. Johnson states:

21 KWRU has had employee retention issues and has frequent turn over on a
22 year over year basis.

23

24 The Utility lost 50% of its operations staff in the first two Quarters of 2011.

25 ...

26 In 2014, the Operations Group was comprised of 67% new staff.

1 The Company is also requesting a profit-sharing plan and increased advertising to
2 attract and retain employees; therefore, vacancies are clearly an issue.

3

4 **Q. WHY ARE VACANCIES AN ISSUE?**

5 A. Although companies may optimistically project a certain number of employees, ratepayers
6 should only be responsible for the costs of actual employees, not budgeted employees that
7 are never hired or provide service. KWRU has admitted that it has a problem with
8 vacancies and these vacancies need to be considered in the calculation of this expense. As
9 noted earlier, the Company in Docket No. 20150071-SU requested 4 new positions in
10 addition to the 7.5 on hand. According to KWRU Exhibit CAJ-23, there were 9 positions
11 filled as of November 2017, thus 2.5 of the requested positions remain unfilled. Based on
12 the Company's response to Citizens' Interrogatory No. 93, that did not change as of
13 December 2017.

14

15 **Q. WHAT ADJUSTMENT ARE YOU MAKING TO SALARIES AND WAGES?**

16 A. The adjustment is a reduction to salaries and wages of \$160,026 for vacant positions. The
17 adjustment is shown on Lines 5 through 7 of Exhibit HWS-1, Schedule C-3.

18

19 **Q. SHOULD THIS ADJUSTMENT BE UPDATED IF THE COMPANY STATES
20 THAT IT HAS OR WILL SOON FILL THE VACANT POSITIONS?**

21 A. No, it should not. The Company has consistently had vacancies and detailed its own
22 experiences with employee retention. The 2017 year-end figure is the closest to a known
23 and measurable amount; therefore, given the Company's history the vacancy issue will
24 continue.

1 **Q. DO YOU HAVE ANY OTHER ADJUSTMENTS TO SALARY EXPENSE?**

2 A. Yes, I do. The Company included in its payroll expense what has been classified as
3 amortization of overtime for an extraordinary event. This amortization should have been
4 included as part of the hurricane cost and not payroll since it does not represent normal
5 overtime. Schedule B-3 of the MFRs includes \$10,605 for hurricane overtime to be
6 amortized over 5 years. The \$10,605 equates to Extraordinary Event Overtime of \$53,025
7 (\$10,605 x 5). In reviewing the historic overtime the Company incurred on average
8 \$16,435 of overtime from 2013 through 2016. This calculation is based on the response to
9 Citizens' Interrogatory No. 93 and the calculation of the average is reflected on Exhibit
10 HWS-1, Schedule C-3. As shown on Exhibit HWS-1, Schedule C-3 the Company incurred
11 \$38,995 of overtime in 2017 not \$53,025 plus a normal level of overtime. Based on the
12 \$38,995 the incremental amount of overtime is \$22,560 and amortizing that over 5 years
13 results in added payroll of \$4,512, not \$10,605. The difference of \$6,093 is being adjusted
14 on Exhibit HWS-1, Schedule C-3, Line 8.

15

16 **Q. HOW DID THE COMPANY DETERMINE ITS OVERTIME AMOUNT?**

17 A. KWRU states that the \$10,605 figure refers to a "hypothetical 1,302 hours of overtime for
18 a 42-day period, amortized over five years." Any adjustment to amortize hurricane
19 expenses should be based on actual expenses and not on a "hypothetical" amount. KWRU
20 provided an Excel schedule in response to Citizens' Interrogatory No. 88 that shows the
21 calculation used. This calculation includes nine employees, and assumes 4 employees
22 worked 4 hours of overtime every day for 42 days. It also assumes 5 employees worked 3
23 hours of overtime for each of the 42 days. Citizens' Interrogatory No. 88 also requested
24 time sheets to support the number of hours worked for each employee. In its response,
25 KWRU admits that one employee included in the calculation resigned from the position

1 before beginning work. In addition, KWRU provided one time sheet for each employee
2 and these reflected only the hourly rate for overtime and did not support the overtime hours
3 allegedly worked.

4

5 **Q. WHAT IS THE TOTAL RECOMMENDED ADJUSTMENT TO PAYROLL?**

6 A. As shown on Exhibit HWS-1, Schedule C-3, Line 3, the total adjustment to salaries is
7 \$166,119.

8 Officers Compensation

9 **Q. IS THERE A CONCERN WITH OFFICERS COMPENSATION?**

10 A. Yes, there is. In the Company's prior rate case (Docket No. 20150071-SU), the 2014
11 officer compensation was \$141,792. This is consistent with the annual report filed with
12 the Commission. However, in just two years, the 2016 officer compensation was \$246,790
13 which represents an increase of 74%. The current request for the June 30, 2017 adjusted
14 test year is for \$261,581, an increase of 6%. Of the recent rate cases I have reviewed,
15 increases to officer's compensation have resulted in a maximum of 3%.

16

17 **Q. ARE YOU MAKING AN ADJUSTMENT TO OFFICERS COMPENSATION?**

18 A. No, not at this time. I included this testimony because it is important to note that the
19 increase to officer's compensation from 2014 to 2016 was significant and the 2017 increase
20 is twice what is the normal increase in rate cases I have reviewed and participated in. The
21 significance of the increase is only magnified by the fact that the KWRU has indicated that
22 compensation is an issue in retaining employees yet the increase in compensation is
23 focused on officers and not the operating employees that need to be retained.

1 Pension Plan

2 **Q. PLEASE DISCUSS THE COMPANY’S REQUEST TO IMPLEMENT A**
3 **TRADITIONAL PENSION PLAN.**

4 A. According to Witness Johnson on pages 13 and 14, the Company determined that it was
5 losing employees to other utilities due to “higher wage/benefit packages and less required
6 on call duty.” As a result, the Company decided that it could “improve retention and reduce
7 turnover by implementing a more traditional Pension Plan.”

8

9 **Q. WHAT IS THE COST OF THE TRADITIONAL PENSION PLAN?**

10 A. According to KWRU’s response to Citizens’ Interrogatory No. 123, the cost of the
11 traditional pension plan is estimated to be \$35,445.

12

13 **Q. DO YOU AGREE WITH THE COMPANY’S REQUEST FOR A MORE**
14 **TRADITIONAL PENSION PLAN?**

15 A. No, I do not. First, companies are replacing traditional pension plans with 401K
16 arrangements. It is not appropriate for a public utility to offer gold-plated benefits to its
17 employees so far above and beyond those received by the average ratepayer. Thus, the
18 Company should not be allowed to buck the trend and move towards traditional benefit
19 plans.

20

21 Second, the Company has not offered sufficient support for either the claim that its high
22 turnover rate is due to its benefit package or the claim that a pension plan will solve its
23 employee retention problems. KWRU was asked to support the former claim in OPC
24 Request for Production of Documents No. 73. The Company’s response provided only
25 email exchanges with the project manager at CH2M and employees at FKAA discussing

1 salary ranges, health and vacation benefits and standby time. This information alone does
2 not substantiate the claim that benefits are causing the Company's turnover issues.

3
4 The Company was also asked in OPC Request for Production of Documents No. 72 to
5 support its claim that the proposed traditional pension plan would improve retention and
6 reduce turnover. KWRU's response states that pension plans for various comparable
7 utilities in the Florida Keys had been reviewed online. However, the fact that KWRU
8 reviewed other company's pension plans does not support its claim that retention and
9 turnover would be improved. The bottom line is that the Company's request is both
10 unsupported and inappropriate.

11
12 The Company overlooks the fact that other companies are able to hire and retain employees
13 without a traditional pension plan. If that were not the case, businesses would not be
14 turning away from traditional pension plans. Although the cause of the Company's hiring
15 and retention issues is not clear, the Company claims in its response to Citizens'
16 Interrogatory No. 43 that it is due to overtime.

17
18 **Q. WHAT IS YOUR ADJUSTMENT FOR THE PENSION PLAN?**

19 A. The adjustment is to remove all costs related to the proposed new plan, a reduction of
20 \$35,445. The adjustment is shown on Exhibit HWS-1, Schedule C-4.

21 Bad Debts

22 **Q. HAVE YOU IDENTIFIED A NON-RECURRING COST ASSOCIATED WITH**
23 **EMPLOYEES BENEFITS?**

24 A. Yes, I have. In February 2017, KWRU wrote off \$2,442.73 in bad debt expense. In
25 response to Citizens' Interrogatory No. 64, the Company explained that it loaned a new

1 employee \$1,675 that was to be fully forgiven if the employee remained employed until
 2 July 2, 2017. The second loan of \$1,675 was to be repaid in equal installments over a one-
 3 year period. However, the employee did not remain employed until July 2, 2017 and the
 4 Company decided not to pursue the unpaid amounts based on the cost of collection
 5 outweighing the potential recovery. Because KWRU did not attempt to collect the unpaid
 6 loan, that amount should be excluded from rates. Ratepayers should not be burdened with
 7 a cost the Company chose not to act on. In addition, this debt should not be considered as
 8 recurring since the employee is no longer employed with KWRU. This adjustment is
 9 shown on Exhibit HWS-1, Schedule C-5.

10

11 Hurricane Expenses

12 **Q. DID YOU REVIEW THE HURRICANE EXPENSES INCLUDED AS AN**
 13 **ADJUSTMENT ON SCHEDULE B-3, LINE 32?**

14 A. Yes, I did. Based upon my review, adjustments should be made to these amounts to exclude
 15 duplication and to remove unreasonable expenses.

16

17 **Q. PLEASE DISCUSS THE EXPENSES THAT ARE DUPLICATES.**

18 A. The Company has requested that \$216,074 in Hurricane Costs be amortized for recovery
 19 over 4 years. The below lists the components of this amount.

Temporary Office Space	18,444.37	CAJ-16
Information Technology Services	7,396.28	CAJ-17
Backup Rental Generator	83,632.00	CAJ-18
Backup Portable Generator	11,642.46	CAJ-19
Hurricane Irma Expenditures	75,279.15	CAJ-20
Estimated Outstanding Hurricane Irma Invoices	15,000.00	None
Repair Roof of Maintenance Building	4,680.00	CAJ-22
Total Other Costs	216,074.26	
Amortize over 4 years	54,018.57	

20

1 The following amounts are included as duplicate line items. Therefore, these amounts,
2 totaling \$14,145 should be removed.

- 3 • Two charges to Information Technology Solutions for \$142.50 and \$1,722.50 are
4 included in CAJ-17 and CAJ-20. Page 11 of Witness Johnson's testimony, Lines
5 4-10, identifies the total costs for IT due to Hurricane Irma and specifically
6 references these invoices as identified in Exhibit CAJ-17. However, these invoices
7 are also specifically listed on CAJ-20.
- 8 • CAJ-20 includes a charge of \$2,899 to Nearshore Electric to set up the electrical in
9 the temporary office trailer. However, page 10 of witness Johnson's testimony,
10 Lines 11 and 12 include \$6,000 for utility installation costs. Therefore, the \$2,899
11 should be removed.
- 12 • One charge to Sunbelt Rentals for \$1,940.41 is included in CAJ-19 and CAJ-20.
13 Page 11 of witness Johnson's testimony, Lines 23-4, identifies CAJ-19 as including
14 six months of rental expense for the tow behind generator. Therefore, the one
15 invoice included in CAJ-20 should not be included as it is a duplicate.
- 16 • There are 6 charges included in CAJ-20 that are labeled Paychex Overtime. These
17 charges total \$7,440.27. KWRU has included as a separate adjustment in Schedule
18 B-3 an amount to amortize the hurricane overtime. I have discussed this earlier in
19 my testimony. As these charges are already included as part of payroll, they should
20 be removed from this list.

21
22 **Q. DID THE OPC REQUEST AN EXPLANATION FOR THE DUPLICATION OF**
23 **THESE EXPENSES?**

24 A. Yes, we did. KWRU's response to Citizens' Interrogatory No. 76 states that although the
25 invoices are listed in both CAJ-17 and CAJ-20, they are only paid once. This supports my

1 argument why an adjustment is necessary. The costs are listed twice but paid only once.
2 CAJ-17 and CAJ-20 both reconcile with Total Other Costs of \$216,074.26 listed on the
3 Summary of Pro Forma Operations & Maintenance Expenses. CAJ-19 is also included in
4 that total making the invoice for \$1,940.41 a duplicate cost as well. The Company further
5 claims that the CAJ-16 does not include the \$2,899. However, the Company's document,
6 CAJ-20, specifically states that the \$2,899 is "Included in CAJ-16."

7

8 **Q. DO YOU HAVE ANY OTHER ISSUES WITH THE HURRICANE COSTS?**

9 A. Yes, I do. Page 12 of Witness Johnson's testimony, Lines 5-8, includes \$15,000 for
10 estimated hurricane repairs where invoices have not been provided. In response to OPC's
11 Request for Production No. 59, KWRU included several invoices that had not been
12 previously provided. However, my review indicates that many of these have already been
13 included in the estimated expenses in other categories (generator rentals, demolition and
14 installation costs, etc. Therefore, I do not believe that the Company has justified the
15 inclusion of the \$15,000 and it should be adjusted. In my analyses I was able to identify
16 approximately \$10,000 of costs that may be related to the hurricane. Therefore, I am
17 recommending an adjustment of \$5,000 to the estimate.

18 **Q. PLEASE EXPLAIN YOUR ADJUSTMENT FOR INSURANCE PROCEEDS.**

19 A. KWRU's response to Citizens' Interrogatory No. 117 included a letter received from
20 SafePoint Insurance Company dated November 12, 2017 relating to an insurance claim for
21 wind damages to its building. SafePoint offered to settle the Company's claim for
22 \$19,393.31.

1 **Q. HAS THE COMPANY ACCEPTED THE SETTLEMENT?**

2 A. It appears from a transaction receipt that the Company received the full amount of the
3 insurance proceeds. However, based on an enclosed letter dated January 17, 2018, the
4 Company is seeking a total of \$75,000 for reimbursement. Whatever amount the Company
5 receives should be a further reduction to storm costs being amortized.

6

7 **Q. WHY SHOULD THE AMOUNT BE DEDUCTED?**

8 A. The Company did not reflect any insurance proceeds in the filing. Since the Company
9 recovers insurance premiums as an expense from ratepayers, ratepayers are entitled to and
10 should receive the benefit of that insurance.

11

12 **Q. WHAT IS YOUR ADJUSTMENT FOR THE INSURANCE PROCEEDS?**

13 A. The adjustment is to remove \$19,393 from Hurricane Irma Storm costs. Further, at a future
14 date, if the Company receives a larger settlement, the amount above \$19,393.31 should be
15 credited to ratepayers.

16

17 **Q. DO YOU HAVE ANY OTHER ISSUE WITH THE AMORTIZATION OF THE
18 HURRICANE COSTS?**

19 A. Yes, I do. As stated previously, KWRU has requested that these costs be amortized over
20 four years. However, Rule 25-30.433(8), F.A.C., states that non-recurring expenses shall
21 be amortized over a five-year period unless a shorter or longer period of time can be
22 justified. Therefore, I have adjusted the amortization period to five years.

1 **Q. PLEASE SUMMARIZE YOUR TOTAL ADJUSTMENTS TO THE HURRICANE**
2 **COSTS.**

3 A. After removing the duplicate and inappropriate costs and amortizing the remaining amount
4 over five years, I have reduced the Company's requested expense of \$54,018 to \$35,507,
5 an adjustment of \$18,511. This adjustment is shown on Exhibit HWS-1, Schedule C-6.

6

7 Dues

8 **Q. WHAT AMOUNT IS THE COMPANY REQUESTING FOR DUES?**

9 A. The Company was asked in Citizens' Interrogatory No. 106 to provide the amount of
10 membership payments to non-industry associations in the test year. KWRU's response
11 stated \$1,812.54 was included, primarily for the Rotary Club of Key West. In Citizens'
12 Interrogatory No. 114, the Company was asked to provide amounts included in the test
13 year for industry dues and memberships. KWRU's response stated that \$350 was included
14 for the Florida Rural Water Association.

15

16 **Q. SHOULD THESE DUES BE EXCLUDED?**

17 A. Yes, they should. Memberships or donations to such clubs tend to be an image-building
18 expense. The Company's shareholders, not ratepayers, are the beneficiaries of
19 improvements to the Company's image. As such, the Company's ratepayers should not be
20 responsible for this expense.

21

22 **Q. WHAT IS YOUR ADJUSTMENT?**

23 A. The adjustment is to remove the entire amount of dues, a reduction of \$2,162.54 to
24 operating expenses. This adjustment is shown on Exhibit HWS-1, Schedule C-7.

1 Advertising Expense

2 **Q. WHAT AMOUNT HAS THE COMPANY INCLUDED FOR ADVERTISING**
3 **EXPENSE?**

4 A. According to KWRU Schedule B-8, the Company has included \$5,803 for Advertising
5 Expense, an increase of \$4,728 or 400% from the prior test year (December 31, 2014) of
6 \$1,075.

7
8 **Q. HOW DOES THE COMPANY EXPLAIN THE INCREASE OF OVER 400% TO**
9 **THIS COST?**

10 A. KWRU indicates this increase is related to attracting new employees. On Schedule B-8,
11 the Company states “Extreme turnover yields advertising expense for Help Wanted Ads.
12 Utility hired wastewater specific personnel and therefore had to advertise in trade
13 publications that were statewide.” KWRU’s response to Citizens’ Interrogatory No. 63
14 states that advertising appears online, in local newspapers, Craigslist, and publications such
15 as Florida Water Resource Journal, Florida Water and Pollution Control Operator
16 Association, and Florida Rural Water Association. The placement of the ads depends on
17 the position to be filled.

18
19 **Q. DO YOU TAKE ISSUE WITH THE COMPANY’S REQUEST FOR**
20 **ADVERTISING EXPENSE?**

21 A. Yes, I do. The inflated amount should not be used for the adjusted test year. Since KWRU
22 is not planning on extreme turnover in future years the increased level of spending is
23 unnecessary. The chart below uses information from the Company’s annual reports. The
24 chart shows that advertising expense has fluctuated over the previous five years. KWRU’s
25 response to Citizens’ Interrogatory No. 41 states the Company hired 3 employees in 2013,

1 4 in 2014, 8 in 2015, and 8 in 2016. The Company is trying to fill 3 positions and have
 2 done that in each of the 4 years without expending \$4,728. Thus, this request is excessive.

Advertising Expense					
2012	2013	2014	2015	2016	Avg.
635	1,426	2,764	631	1,376	1,366

3
4
5 **Q. HOW SHOULD AN APPROPRIATE LEVEL BE DETERMINED?**

6 A. Because the amounts rise and fall over the years, the use of an average is the most
 7 appropriate method to estimate future expense. A five-year average is long enough to
 8 smooth out low and high years but recent enough to provide a relevant estimate.

9
10 **Q. IN RESPONSE TO CITIZENS' INTERROGATORY NO. 39, THE COMPANY**
 11 **PROVIDED AMOUNTS FOR 2017 FOR EACH OF THE CATEGORIES ON**
 12 **SCHEDULE B-8. WHY DID YOU NOT USE THOSE AMOUNTS IN YOUR**
 13 **CALCULATIONS OF 5-YEAR AVERAGES FOR ADVERTISING AND OTHER**
 14 **EXPENSES THAT APPEAR ON THAT SCHEDULE?**

15 A. KWRU's response to Citizens' Interrogatory No. 39 states "Please note that amounts after
 16 June 30, 2017, have not been audited and are preliminary, based on KWRU's allocation of
 17 expenses." As these numbers are preliminary, they are inappropriate for use in these
 18 calculations. The amounts reported to the Florida Public Service Commission by the
 19 Company in its annual reports, on the other hand, have been certified and can be considered
 20 the Company's official numbers. As such, I have used only the information from the
 21 annual reports in determining averages for advertising expense, materials and supplies,
 22 contractual services – engineering, and rental of equipment.

1 It should also be noted that, in its response to Citizens' Interrogatory No. 87, the Company
2 provided amounts for the years 2015 – 2017. The amounts for advertising expense and
3 contractual services reconcile to the Company's annual reports. For equipment, materials
4 and supplies, the amounts did not reconcile. Therefore, for the reasons stated above, I
5 applied the figures from the Company's annual reports for each of the four issues.

6

7 **Q. WHAT IS THE ADJUSTMENT TO ADVERTISING EXPENSE?**

8 A. The recommended adjusted test year amount is the five-year average of \$1,366, a
9 reduction of \$4,437 to Advertising Expense (\$5,803 - \$1,366). This adjustment is shown
10 on Exhibit HWS-1, Schedule C-8.

11 Materials and Supplies

12 **Q. PLEASE EXPLAIN YOUR ADJUSTMENT TO MATERIALS AND SUPPLIES.**

13 A. KWRU's Schedule B-8 states the Company included \$86,041 for materials and supplies in
14 the adjusted test year, an increase of \$54,922 over the prior test year ended December 31,
15 2014 expense of \$31,119.

16

17 **Q. HOW DOES THE COMPANY EXPLAIN THIS INCREASE?**

18 A. On Schedule B-8, KWRU states:

19 Materials and supplies are directly related to the number of plant and maintenance
20 personnel. For example, when the Utility carries less staff the Utility often can't
21 do small capital projects in house. Generally, in these cases the small capital
22 projects are awarded to outside contractors.
23

24 **Q. IS THAT A SATISFACTORY EXPLANATION FOR THE INCREASE?**

25 A. No, it is not. This explanation does not explain or support the need to almost triple the
26 expense from the 2014 test year level.

1 **Q. HOW DID YOU DETERMINE THE ADJUSTMENT TO THIS EXPENSE?**

2 A. As seen in the chart below, materials and supplies expense fluctuates over time. This also
3 seems to indicate that there is no correlation with employees as suggested in the
4 explanation on Schedule B-8.

Materials and Supplies					
2012	2013	2014	2015	2016	Avg.
48,099	46,076	43,884	27,506	22,267	37,566

5

6
7 As such, the use of an average is more appropriate. An average of the previous five years
8 is applicable since it is recent enough to reflect current costs but enough years to smooth
9 out any abnormally low or high years. The average for materials and supplies over the
10 previous five years is \$37,566.

11

12 **Q. WHAT IS THE ADJUSTMENT TO MATERIALS AND SUPPLIES?**

13 A. The adjustment is a reduction of \$48,475 (\$86,041-\$37,566), resulting in an adjusted test
14 year amount of \$37,566. This adjustment is shown on Exhibit HWS-1, Schedule C-9.

15

16 Contractual Services – Engineering

17 **Q. HAS THE COMPANY INCLUDED COSTS IN ITS FILING FOR CONTRACTUAL
18 SERVICES – ENGINEERING?**

19 A. Yes, as stated on Company Schedule B-8, KWRU has included \$20,765 for Contractual
20 Services – Engineering in the adjusted test year.

1 **Q. HAVE YOU MADE AN ADJUSTMENT FOR THIS EXPENSE?**

2 A. Yes, I have. The chart below, utilizing information from the KWRU's annual reports from
3 2012-2016, demonstrates that this expense has fluctuated during those years with only one
4 of the five years exceeding the Company's request.

Contractual Services - Engineering					
2012	2013	2014	2015	2016	Avg.
22,523	9,196	7,270	2,896	15,343	11,446

5

6

7 As this is an expense that increases and decreases over time, the use of an average is an
8 appropriate means to estimate future amounts. A five-year average is \$11,446.

9

10 **Q. DID YOU FIND ANY REASON FOR THE TEST YEAR EXPENSE TO BE SO**
11 **HIGH?**

12 A. Yes, I did. My review found test year charges to this account that should be removed. The
13 description for the first three charges indicates work performed related to a DEP Permit
14 renewal. In its response to Citizens' Interrogatory No. 55, the Company indicated the
15 permit renewal is for 5 years. Therefore the \$11,658.75 should be amortized over five
16 years. This results in a reduction to the expense of \$9,327. The remaining four items are
17 described as work related to plant projects and these should be removed and included in
18 Utility Plant in Service. This results in a further reduction of the expense of \$1,425. This
19 results in a total reduction to Contractual Services – Engineering of \$10,752.

08/05/2016	General Services: permit renewal work	11,167.50	Permit
08/05/2016	Admin met with CJ and Greg, discuss projects, meet with Bill re: vac tank replacement and permit renewal; WWTP renewal application correspondence w/Ed	396.25	Permit
06/02/2017	Review FDEP permit mod, check rules re staffing & testing; advise Greg to renew staffing exemption	95.00	Permit
	Total Permit Renewal	11,658.75	
12/06/2016	Review Evoqua proposal for rehab of existing WWTPs, send comments to Greg, suggest on-site meeting; draft sole source letter for rehab/upgrade to two existing treatment trains.	285.00	Plant
02/02/2017	Contact Evoqua re: Draimad system; send confined space entry permit form to CJ; research qualifications and training needs; calcs for GPD for various Draimad systems, send info and link to CJ and GW; call w/GW, look into vac pump noise, sewage pump impeller trim research, existing blower output issues.	712.50	Plant
03/02/2017	Review Draimad data, estimate GPD for dewatering, request data from KWRU	142.50	Plant
03/02/2017	Get data for screw press, contact Moss Kelly re Draimad bag system, forward info to KWRU	285.00	Plant
	Total Plant	1,425.00	

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9

The average from 2012 to 2016 for this expense is \$11,446. Adjusting to the average would result in a reduction of \$9,319 (\$20,765-\$11,446). That further substantiates KWRU projected cost is too high and that my specific adjustment of \$10,752 is reasonable. The projected test year expense should be \$10,013 (\$20,765-\$10,752). This adjustment is shown on Exhibit HWS-1, Schedule C-10.

Insurance – Workman’s Compensation

10 **Q. WHAT AMOUNT HAS THE COMPANY REQUESTED IN ITS FILING FOR**
 11 **WORKMAN’S COMPENSATION?**

12 A. Schedule B-8 provided by the Company shows an adjusted test year expense for Insurance
 13 - Workman’s Compensation of \$36,073 which is an increase of \$10,099 over the 2016
 14 amount of \$25,974 as shown on the KWRU’s annual report.

15

16 **Q. HOW DID THE COMPANY CALCULATE THIS EXPENSE?**

17 A. The Company’s response to Citizens’ Interrogatory No. 61 indicates that workman’s
 18 compensation expense is calculated as 4.4% of salaries and wages expense.

1 **Q. PLEASE EXPLAIN YOUR ADJUSTMENT.**

2 A. This expense is based on employees and their compensation. According to its response to
3 Citizens' Interrogatory No. 93, the Company averaged 11 employees in the test year. As
4 the number of employees has not increased, this expense should not increase and should
5 be held to the test year amount.

6
7 **Q. WHAT IS YOUR ADJUSTMENT FOR THIS EXPENSE?**

8 A. The adjustment is to hold this expense to the test year amount of \$27,234, a reduction of
9 \$8,839 (\$36,073 - \$27,234) to Insurance – Workman's Compensation Expense. This
10 adjustment is shown on Exhibit HWS-1, Schedule C-11.

11

12 Non-Utility Expenses

13 **Q. DID YOU FIND NON-UTILITY EXPENSES INCLUDED IN THE TEST YEAR?**

14 A. Yes, I did. KWRU's response to Citizens' Interrogatory No. 69 states that the Company
15 has included \$709.16 (\$295.61 food + \$413.55 tent and chair rental) for a retirement party.
16 In addition, the Company's general ledger includes \$1,050 for a Christmas party. These
17 amounts should be disallowed as they only benefit the Company's employees and not
18 ratepayers. This adjustment of \$1,759 is shown on Exhibit HWS-1, Schedule C-12.

19

20 Rental of Equipment

21 **Q. WHAT AMOUNT HAS THE COMPANY REQUESTED FOR EQUIPMENT**
22 **RENTAL IN THE ADJUSTED TEST YEAR?**

23 A. The Company has included \$1,479 for equipment rental on Schedule B-8.

1 **Q. DO YOU AGREE WITH THIS AMOUNT?**

2 A. No, I do not. Similar to other expenses on Schedule B-8, this expense has fluctuated over
3 the previous five years. The chart below utilizes information from KWRU's annual reports
4 to show the up and down nature of this expense.

Rental of Equipment					
2012	2013	2014	2015	2016	Avg.
2,001	750	0	528	0	656

5
6 As shown, in some years the Company did not have any expense for equipment rental. As
7 the amount has increased and decreased over the years, it can be expected to do so in the
8 future.

9

10 **Q. DOES THE COMPANY EXPECT THIS EXPENSE TO STAY AT THE CURRENT**
11 **LEVEL?**

12 A. No, it does not. KWRU's response to Citizens' Interrogatory No. 57 states:

13 These expenses are anticipated to occur less frequently in the future, as KWRU has
14 obviated the need for crane truck rental by purchasing a crane truck. The specific
15 number of anticipated equipment rentals on a forward-looking basis cannot be
16 determined at this time.

17

18 **Q. WHAT IS YOUR ADJUSTMENT FOR RENTAL OF EQUIPMENT?**

19 A. KWRU has purchased a service truck with a crane so it is able to perform the same work
20 that required the rental of equipment during the test year. The Company's own admission
21 is that the number of rentals cannot be determined at this time. Therefore, there is no
22 evidence to support future equipment rental expense and the recommended adjustment is
23 to remove the Company's requested amount of \$1,479. This adjustment is shown on
24 Exhibit HWS-1, Schedule C-13.

1 Employee Training Expense

2 **Q. WHAT AMOUNT IS THE COMPANY REQUESTING IN ITS FILING FOR**
 3 **EMPLOYEE TRAINING?**

4 A. According to KWRU's General Ledger, the Company is requesting \$10,383 for employee
 5 training expense.

6

7 **Q. IS THERE AN ISSUE WITH THIS EXPENSE?**

8 A. Yes, it is considerably too high. The chart below is based on information from KWRU's
 9 general ledger and the response to Citizens' Interrogatory No. 51.

Employee Training				
2013	2014	2015	2016	Avg.
8,513	50	3,937	12,348	6,212

10

11 It shows that not only does this expense fluctuate over time, but also that the test year is
 12 considerably higher than the actual amount in any of the previous four years other than
 13 2016.

14

15 **Q. HAVE YOU MADE AN ADJUSTMENT?**

16 A. Yes, I have. Because this expense has fluctuated over the previous years it can reasonably
 17 be expected to do so in future years. As such, a four-year average is appropriate to use in
 18 determining the expense. As shown on the chart, the four-year average from 2013 to 2016
 19 is \$6,212.

20

21 **Q. WHY DID YOU USE A FOUR-YEAR AVERAGE FOR THIS EXPENSE WHEN**
 22 **YOU USED A FIVE-YEAR AVERAGE FOR YOUR OTHER ADJUSTMENTS?**

1 A. For the other adjustments in which I utilized a five-year average, five years of data was
2 available from the KWRU's annual reports. For this expense, I only had four years of data,
3 unaudited 2017 amounts notwithstanding.

4

5 **Q. WHAT IS YOUR ADJUSTMENT?**

6 A. The adjustment to employee training is a reduction of \$4,171 (\$10,383 - \$6,212). This
7 adjustment is shown on Exhibit HWS-1, Schedule C-14.

8

9 Benefit Expense

10 **Q. WHY HAVE YOU MADE AN ADJUSTMENT TO BENEFIT EXPENSE?**

11 A. KWRU has increased its benefit expense based on the requested increase wages and
12 salaries and since I am recommending an adjustment to wages and salaries a corresponding
13 adjustment to benefit expense is necessary. The adjustment is a reduction to benefit
14 expense of \$34,337 (\$166,119 x 20.67%). This adjustment is shown on Exhibit HWS-1,
15 Schedule C-15.

16

17 Payroll Tax Expense

18 **Q. HAVE YOU MADE AN ADJUSTMENT TO PAYROLL TAX EXPENSE?**

19 A. Yes, I have. The adjustment to payroll tax reflects the corresponding impact of the
20 adjustment to wages and salaries. The adjustment is a reduction to payroll tax expense of
21 \$12,708 (\$166,119 x 7.65%). This adjustment is shown on Exhibit HWS-1, Schedule C-
22 16.

1 Rate Case Expense

2 **Q. HAVE YOU REVIEWED RATE CASE EXPENSE IN THIS DOCKET?**

3 A. Yes, I have. Schedule B-10 of the MFRs is a schedule showing \$284,400 for rate case
4 expense in this case. This is understandably less than the amount approved by the
5 Commission in the last rate case as the test years are only 2 ½ years apart. However, I
6 recommend that the Company has not provided an updated actual and estimated to
7 complete analysis to support Schedule B-10. Once it does, the amounts should be carefully
8 scrutinized for the following:

- 9 • The prior order recognized that the utility was charging rate case expense for two law
10 firms and made adjustments to remove charges for duplicative tasks.
- 11 • The prior order also made adjustments to remove all rate case expense for correcting
12 the deficiencies in the MFRs. This case included two filings for deficiencies, therefore,
13 those costs should be removed.
- 14 • I would also note that the hourly rates for Smith Hawks and Friedman and Friedman
15 are very high, and significantly higher in this case than in KWRU's last rate case in Docket
16 No. 20150071-SU. Smith Hawks law firm now charges rates up to \$420 an hour. These
17 rates are significantly higher than the rates now charged by the Friedman & Friedman law
18 firm of \$370 per hour. Unlike Smith Hawkes, Friedman & Friedman is a law firm that
19 specializes in representing water and wastewater utilities in the state of Florida, therefore
20 the Commission should carefully review these higher hourly charges. The Smith Hawks
21 law firm has much less experience before the Commission and it is not reasonable that its
22 hourly charges should be higher.

1 **VII. CAPITAL STRUCTURE**

2

3 **Q. ARE THERE CONCERNS WITH THE CAPITAL STRUCTURE?**

4 A. Yes, there are. In response to Citizens' Request for Production of Documents No. 14, the
5 Company provided a file named "KWRU MFRs Vol 1 TY 6-30-17_with Workpapers".
6 This file provided two 13-month trial balances. Each one reflected debt of \$2,209,292. On
7 the other hand, KWRU showed different figures for its Common Equity: in worksheet
8 BS_Trial Balance it was \$1,908,231; in worksheet BalSheet Acct_PerAR it was
9 \$1,984,113 and, in its revised MFR Schedule D-2 and Schedule A-19, it indicates a 13
10 month average of \$2,159,569.

11

12 **Q. DID YOU MAKE CHANGES TO THE COMPANY'S CAPITAL STRUCTURE?**

13 A. Yes, I did. KWRU's actual capital structure is adjusted to reconcile it to rate base and this
14 adjustment affects the weighting to debt and equity respectively. Because of the
15 adjustments to rate base the weighting between debt and equity changed. Therefore,
16 applying KWRU's method of assessing the reconciliation of rate base to the capital
17 structure the change in weighting reduced the overall rate of return to 7.40%.

18

19 **VIII. SUMMARY**

20

21 **Q. WOULD YOU SUMMARIZE YOUR RECOMMENDATIONS TO KWRU'S
22 REQUESTED INCREASE OF \$1,349,690?**

23 A. The OPC is recommending that KWRU's requested rate base of \$7,043,724 be reduced by
24 \$1,548,403 to \$5,495,321. The adjustments as shown on Exhibit HWS-1, Schedule B
25 include a reduction to plant of \$652,972, a reduction to accumulated depreciation,
26 increasing rate base, of \$37,876 and a reduction to working capital of \$933,307.

1 The recommended adjustments to operating expenses as shown on Exhibit HWS-1,
2 Schedule C-1 total \$488,804. The adjustments consist of various O&M adjustments
3 totaling \$343,671, a reduction to depreciation expense of \$132,424 and a reduction taxes
4 other of \$12,708.

5

6 **Q. DOES THIS COMPLETE YOUR PREFILED TESTIMONY?**

7 **A. Yes, it does.**

1 COMMISSIONER POLMANN: Thank you. I think we
2 are at the point of summary from the witness.

3 MR. SAYLER: Yes, sir.

4 COMMISSIONER POLMANN: Please proceed.

5 BY MR. SAYLER:

6 Q Mr. Schultz, would you be able to provide a
7 summary of your testimony as it relates to your
8 five-minute summary, and if there is part of your
9 summary that relates to square footage costs, if you
10 will leave that out given the presiding officer's
11 ruling?

12 A May I seek clarification on that since there
13 are parts of the testimony on the building made
14 reference to the cost per square foot but that was not
15 struck?

16 COMMISSIONER POLMANN: Ms. Helton, can you
17 help me, if you understand the clarification
18 question?

19 MS. HELTON: I am not sure that I understood
20 exactly, but if I --

21 MR. SAYLER: My --

22 MS. HELTON: If he is relating back to
23 testimony that was struck -- strick --

24 COMMISSIONER POLMANN: Stricken.

25 MS. HELTON: -- thank you, I would suggest

1 that he not discuss that.

2 MR. SAYLER: All right. May I have a moment
3 to confer with my witness to make sure that his
4 summary doesn't go out of bounds?

5 COMMISSIONER POLMANN: Okay. What we are
6 trying to do is preclude -- we have stricken the
7 testimony -- please direct the witness to exactly
8 which testimony was stricken. And then my
9 additional instructions is that we direct the
10 witness to, in answering any questions, try to
11 avoid reference back to that, and I will ask the
12 staff counsel to assist me in raising an objection
13 if that were to occur --

14 MR. SAYLER: Yes, sir.

15 COMMISSIONER POLMANN: -- so please take a
16 minute.

17 MR. SAYLER: All right. Thank you.

18 (Discussion off the record.)

19 MR. SAYLER: All right. Commissioner Polmann,
20 when you are ready.

21 COMMISSIONER POLMANN: We are ready. Please
22 proceed.

23 BY MR. SAYLER:

24 **Q All right. Good afternoon, Mr. Schultz. Have**
25 **you prepared a summary of your testimony?**

1 A Yes, I have.

2 Q **Would you please read that?**

3 A Thank you.

4 Good afternoon, Commissioners. KWRU initially
5 proposed a revenue increase of \$1,349,690, or 57.9
6 percent increase. MFR revisions were filed at various
7 points throughout the proceeding, and on February 19th,
8 2018, KWRU submitted a third revised Schedule B-8 that
9 reflected a reduction to O&M expense of \$12,128. This
10 was done without a revision to Schedule B-2 to reflect
11 this change in the impact of KWRU's requested revenue
12 increase.

13 KWRU is also requesting a cash balance of
14 \$911,826 for working capital. This is significant and
15 an excessive increase of \$593,848 over the amount
16 approved in the company's most recent rate case last
17 year. In last year's rate case, KWRU requested working
18 capital of 877,289. This request was denied, and the
19 Commission approved working capital of \$317,978, which
20 was considered more reflective of KWRU's ongoing
21 operations. The requested increase this year is, again,
22 not justified.

23 Working capital also includes \$281,123 of
24 special deposits. These deposits are ratepayer funds in
25 escrow and earn interest. They should not be allowed as

1 part of working capital.

2 Another cost in rate base is 13-month average
3 for rate case expense. This should not include any
4 amounts which exceed the Commission's previously allowed
5 expense. KWRU is asking for more than what was allowed.
6 Although my initial recommendation does not reflect
7 PSC's past precedent which limits the amount of rate
8 case expense to one-half of the unamortized balance.

9 KWRU is also requesting funds for a service
10 truck with a crane that exceeds its initial expenditure
11 for this vehicle. This is inappropriate and should be
12 adjusted because the company did not spend the \$74,174
13 for that truck.

14 KWRU is requesting \$288,000 for a modular
15 office of approximately 1,200 square feet. The company
16 provided a contract with PP Keys 2016, LLC, which states
17 this office will be installed and ready for occupancy by
18 March 31st, 2018. This did not occur. This amount of
19 288,000 is only an estimate, and more importantly, the
20 name PP Keys 2016, LLC, could not be found in the
21 Florida Division of Corporations and does not exist.

22 OPC does agree a new office would be nice,
23 however, the amount requested is not supported.
24 Construction drawings have not been completed as of
25 today, and the plans still need official approval.

1 There is insufficient justification at this time that
2 the building will be in service during the period rates
3 are in effect.

4 Accumulated depreciation in the company's
5 filing must be adjusted to account for removal of any
6 plant cost and there was errors in the company's filing.

7 KWRU has asked for a redundant phone system
8 for its SCADA system only to say that we can't trust
9 either system.

10 KWRU is requesting \$752,549 for salaries and
11 wages, which reflects an increase of 238,881 over its
12 2016 salaries. They have requested additional
13 employees, and these employees do not reflect any
14 vacancies occurring, which has been a reoccurring issue
15 with this company.

16 KWRU argues that it's losing employees to
17 other utilities due to its higher wage and benefit
18 packages, less on-call duty, and wants to implement a
19 new pension plan to improve retention and reduce
20 turnover. The cost of the plan is estimated at \$35,445.
21 KWRU has not supported this request as that it will
22 actually improve retention.

23 KWRU has requested \$216,074 in hurricane costs
24 to be amortized over four years. This request includes
25 duplicated costs, estimated costs, and it does not

1 reflect an insurance proceeds that were received from
2 the -- for the damages incurred. I am recommending that
3 this cost, as adjusted, be amortized over five years.

4 KWRU's Schedule B-8 states it included 86,000
5 for materials and supplies in the adjusted test year, an
6 increase of \$54,922 over the prior test year ending
7 December 31, 2014. The average for materials and
8 supplies over the five previous years is \$37,566;
9 therefore, a reduction of 48,000 is recommended. I have
10 utilized a five-year average for the cost adjustment to
11 reflect a more normalized level of expense.

12 In summary, OPC is recommending a requested
13 rate base be reduced by \$1,548,403 to 5,495,321. The
14 adjustments include a reduction to plant, a reduction to
15 accumulated depreciation and an increased rate base
16 for -- and a reduction to working capital.

17 The recommended adjustments to operating
18 expenses are \$488,804. The adjustments consist of
19 various O&M adjustments totaling 343,671, a reduction to
20 depreciation expense of 332,424, and a reduction to
21 taxes other of 12,708.

22 Thank you.

23 COMMISSIONER POLMANN: Thank you, Mr. Schultz.

24 BY MR. SAYLER:

25 **Q Thank you, Mr. Schultz, for your summary.**

1 MR. SAYLER: Mr. Chairman, we would tender
2 this witness for cross.

3 MR. SMITH: Thank you.

4 Before we get into the cross, as to the
5 pension plan, to speed this up, I would request we
6 adopt that line of questioning on voir dire so that
7 I don't have to ask those questions again.

8 COMMISSIONER POLMANN: Okay. It's on the
9 record.

10 MR. SMITH: Thank you.

11 EXAMINATION

12 BY MR. SMITH:

13 Q Mr. Schultz, if you could turn to page seven
14 of your testimony --

15 A Yes, sir.

16 Q -- lines seven through 12.

17 A Yes, sir.

18 Q You would agree that your recommendation of
19 working capital should be \$317,978, correct?

20 A Yes, sir.

21 Q Would you agree that's less than two months of
22 the utility's expenses requested, correct?

23 A Yes, I would agree that it's less than two
24 months of expenses because the intent of working
25 capital, as it is reflected in rate base, is to provide

1 an opportunity to have the working cash that's required
2 for essentially one month of operations.

3 Q You are aware that after Hurricane Irma, the
4 utility did not receive payment for over two months?

5 A No, I am not aware of that.

6 Q Mr. Schultz, stay on that page, lines 15
7 through 18. You state that you are recommending -- this
8 is line 15: "I recommend excluding what is identified
9 as special deposits (FPSC Escrow Accounts) because I
10 understand these are ratepayer funds in escrow and they
11 are earning interest." Do you see that testimony?

12 A Yes, sir.

13 Q You are aware that all those funds in the
14 account were transferred to KWRU's operating account at
15 the end of the last rate case?

16 COMMISSIONER POLMANN: Please ask a question.

17 BY MR. SMITH:

18 Q Do you understand -- did you know that those
19 funds were transferred to the operating account after
20 the last rate case ended?

21 A Well, I would -- I can't say that I knew they
22 were actually transferred to the operating funds. The
23 only difference is that, to the extent they were
24 transferred to the operating funds, you are just moving
25 that line of working capital that you have requested up

1 to the cash line, which means that cash line would then
2 be increased by the 281,123. And to the extent that I
3 recommended reducing the cash requirement, that would
4 have to be also eliminated in that part, so it doesn't
5 really matter.

6 Q If the interest was recorded as income, you
7 would agree that those funds are appropriately working
8 capital, correct?

9 A No, I do not.

10 Q Can we turn to page five?

11 A Page five?

12 Q Page five, lines 23 through 25. Do you see
13 your answer there?

14 A Yes, sir.

15 Q Okay. And the question was: "Why is it
16 inappropriate to have an excessive amount of cash in
17 working capital?" And your response is: "If KWRU has
18 accumulated a significant amount of cash that is not
19 readily needed to operate the company on a daily basis,
20 it should find alternative uses for that cash. It could
21 invest that cash in an interest-bearing account, pay off
22 debt, or use that money for business purposes."

23 First, you would agree that if the utility
24 paid down debt, that would increase its equity position?

25 A Yes, sir.

1 Q And an increase in equity position would
2 provide for an increase in general revenue?

3 A Generally speaking it may, yes.

4 Q And if the utility invested in reasonable and
5 prudent business purposes, that would be allowed to be
6 recovered from the ratepayers, correct?

7 A That's correct.

8 Q Going to page 14 to 15 -- and I am
9 paraphrasing, but you are discussing the accumulated
10 depreciation on pages 14 and 15, correct?

11 A Yes, sir.

12 Q And you identified some errors in the
13 accumulated depreciation, correct?

14 A I identified what I perceived as errors in the
15 accumulated depreciation calculation. Yes, sir.

16 Q Were you made aware that the MFRs were
17 corrected for those areas in the accumulated
18 depreciation?

19 A Those errors were purportedly corrected. This
20 testimony didn't address the corrected MFRs. This is
21 addressing what was filed by the company originally.

22 Q It was in the -- you didn't see it in the
23 original filing?

24 A I saw the errors in the original filing.
25 That's what this is about.

1 Q You didn't see the correction that was made in
2 the MFRs to correct the errors to the depreciation?

3 A I am going to have to say I am kind of lost
4 because there were multiple corrections made so I am not
5 sure when you are talking about the correction was made.

6 Q Okay. Can you turn to -- do you have
7 Ms. Swain's testimony in front of you?

8 A No, sir, I do not.

9 MR. SAYLER: Is this her direct or rebuttal
10 testimony?

11 MR. SMITH: Direct. I will withdraw that and
12 move on.

13 BY MR. SMITH:

14 Q Can we turn to the phone system?

15 A Yes, sir.

16 Q Okay. You disallowed the redundant phone
17 system?

18 MR. SAYLER: Which page? I am sorry.

19 BY MR. SMITH:

20 Q In your prefiled -- in your summary statement,
21 you stated you have disallowed the redundant phone
22 system, correct?

23 A That's correct.

24 Q And in your testimony, you provided that and
25 you did not allow for the redundant phone system, is

1 **that correct?**

2 A That's correct.

3 **Q And do you know what SCADA is?**

4 A SCADA is what is called Supervisor Control and
5 Data Acquisition. It is a system that will assist in
6 monitoring your system to provide you access to it and
7 to be able to remotely access it so you can make changes
8 if necessary.

9 **Q That's a better summary than I can give.**

10 **Will you agree that the SCADA system is**
11 **required as part of KWRU's current operating permit?**

12 A I would agree, yes. I mean, I have seen --
13 SCADA systems are common within utilities. There is no
14 question about that.

15 **Q All right. Are you aware that the SCADA**
16 **system permitted the utility to reduce its staffing**
17 **requirements?**

18 A That is what Mr. Johnson testified to, that
19 it's allowed them to reduce them, but the filing doesn't
20 reflect that reduction.

21 **Q Do you recall what Mr. Johnson testified the**
22 **reduction in staffing was because of the SCADA system?**

23 A I don't remember the size specific, he said it
24 cut some costs, I think he was referring to the overtime
25 in half.

1 Q All right. Would it be fair to say that he
2 stated it reduced the amount of staffing required from
3 16 hours per day, seven days a week, to eight hours per
4 day, five days a week, with the checking on the
5 weekends?

6 A I do recall that statement.

7 Q Okay. Is it your understanding that SCADA has
8 to be connected to the internet?

9 A You have to have a means of connecting to it.
10 There is no question about that.

11 Q Have you operated a wastewater treatment plant
12 before?

13 A No, sir.

14 Q Are you aware if other systems in a waste
15 water treatment plant have redundancy?

16 A I haven't really thought about it other than
17 this because it was not something that I observed in the
18 file, so I may, may, at some juncture in my career or
19 may have done it in the past, but I can't say that I
20 identified anything else in this filing.

21 Q You understand what redundancy provides,
22 correct?

23 A It's a backup.

24 Q Would you agree that utilities, in order to
25 prevent environmental violations, have redundant

1 **systems?**

2 A Well, I think that's a general statement. I
3 am not sure that utilities, in general, have redundance
4 unless you can be more specific as to what the system is
5 that you are referring to as the redundancy, and I will
6 give you -- I mean, for example, an electric utility has
7 a very in-depth SCADA system to be able to monitor all
8 the different areas of where their system is spread out
9 so they can identify when there is outages at specific
10 locations.

11 Q Chlorine contact chambers, there is two
12 chlorine contact chambers at this utility?

13 A That's not part of my testimony. I didn't
14 address it.

15 MR. SAYLER: Objection, outside of his
16 testimony.

17 BY MR. SMITH:

18 Q Let's -- to be clear, you didn't review
19 redundancy as any part of this utility?

20 A I did not review redundancy on any other part.
21 No, sir.

22 Q Salaries and wages. You never visited KWRU's
23 facility, did you?

24 A No, sir.

25 Q And to determine salary and wages, you looked

1 at historical employment, correct?

2 A I looked at historical employment. I looked
3 at the current levels. Yes, sir.

4 Q You reviewed the data that was provided by
5 Mr. Johnson, correct?

6 A Could you be more specific, what data?

7 Q Okay. Page 21 of your testimony. I am
8 looking at lines 27 through 28. Let's start with 25 to
9 28.

10 Do you -- the question is: "Do you agree with
11 Mr. Johnson's assertion that the order was in error?"

12 Answer: No, I do not. The order was not in
13 error because the requested additions did not
14 materialize. KWRU's Exhibit CAJ-23 shows there are
15 currently nine employees on staff."

16 Do you see that testimony?

17 A You are reading pretty fast. I don't see the
18 nine, but --

19 Q It's written out. It is not in the numerical
20 form. It's there are currently nine employees on staff.

21 A Okay.

22 Q Can you turn to Mr. Johnson's testimony
23 CAJ-20-23. It's in that big thing. I put a little blue
24 tab on it so you could find it.

25 A Thank you.

1 MR. SAYLER: Mr. Smith, I am having difficulty
2 hearing your questions.

3 MR. SMITH: I will speak louder.

4 MR. SAYLER: Thank you. Was that CAJ-23?

5 MR. SMITH: Yes, CAJ-23, he references it.

6 THE WITNESS: I have got the blue tab, yes,
7 sir.

8 MR. SAYLER: And my tab is blue, too.

9 BY MR. SMITH:

10 Q All right. You see that there is a box at the
11 top on the right-hand side, do you see that box?

12 A Yes, sir.

13 Q Okay. You see that there is -- if you can
14 count how many different employee initials there are,
15 there is -- how many employee initials are on that
16 calendar?

17 A 14.

18 Q Okay. And so your testimony is that it shows
19 nine employees on staff, correct?

20 A That was referring to the operational people.

21 Q So you see those on the status as of
22 November 2017, you said there was 14, correct?

23 A There is 14 listed here. Yes, sir.

24 Q All right. The one employee initials SJ, next
25 to it it says, status, hired before Hurricane Irma,

1 never worked for the company, lost power. Do you see
2 that?

3 A Yes, sir.

4 Q So you are not counting that person because he
5 lost his housing because of Irma?

6 A I am not counting that because I -- when I
7 refer to the nine, I was basing it up on information
8 supplied by the company other than the CAJ. And to be
9 more precise, Mr. Johnson was referring to how, at
10 points in time, the company had full complements of
11 employees, that basically is inconsistent with the
12 response to OPC4-93.

13 In that response, it identified a range of
14 employees from month to month that went from 10 to 13,
15 and after you subtract your two officers, you are down
16 to eight to 11.

17 Q Well, I want to go to your testimony, because
18 I am a little confused. You say KWRU's Exhibit CAJ-23
19 shows there are currently nine employees on staff.

20 MR. SAYLER: Asked and answered, and his
21 answer earlier was nine operational employees on
22 staff.

23 BY MR. SMITH:

24 Q Where does it state in your testimony that
25 they are operational employees?

1 A Well, the testimony isn't dealing with the
2 officers' compensation. In the beginning of the
3 testimony, it talks about the 752,000 that was in there.
4 That's the operational employee compensation.

5 **Q So you are not including the officers as**
6 **employees of the company?**

7 A They are not part of the discussion here
8 because the officers isn't the issue with the vacancies
9 that are occurring; you see, because you have your two
10 officers, those two officers are basically staying
11 employed.

12 **Q So you understand that you have reduced the**
13 **total employment, including officers, from 14 to 10?**

14 A That's incorrect.

15 **Q So you are saying that the actual employees**
16 **that you are allowing is the 10 plus an additional two**
17 **officers?**

18 A What I adjusted was only the compensation for
19 the employees, the operating employees. You have in
20 your filing two different numbers, one for officers and
21 one for the operating.

22 My adjustment only addressed the operating,
23 and I only provided -- and I didn't -- I don't -- pardon
24 my expression here. I take exception to the fact that
25 you are saying I am eliminating them. What I am

1 accounting for is vacancies. Vacancies occur from time
2 to time throughout the year. This is definitely a
3 problem with the company. And all I am saying is that I
4 reflected those vacancies. And I took this whole
5 compensation picture as a one total package for
6 operations, not officers. I am not addressing the
7 officers. That I had a separate piece of testimony.

8 **Q Okay.**

9 A And what I took those --

10 **Q So let's focus on the employees.**

11 A That's what I am trying to explain my full
12 focus on this.

13 One of the things I did is when I reflected
14 the salary -- I started with the company's salaries as
15 they reflected in the filing, and then I reflected a
16 level of overtime after adjusting for what I said would
17 be vacancies. And I took that overtime, which was based
18 upon a use of a five-year average for when you have all
19 these vacancy issues. So my total payroll really
20 reflects what your company would incur for payroll if
21 you had vacancies and had to keep up the overtime.

22 COMMISSIONER POLMANN: Thank you, sir.

23 Mr. Smith, a suggestion --

24 MR. SMITH: Yes.

25 COMMISSIONER POLMANN: We are spending a fair

1 amount of time with the witness elaborating, and it
2 sounds to me that he is elaborating on things that
3 you didn't ask.

4 MR. SMITH: I would agree.

5 COMMISSIONER POLMANN: Well, hold on. Part of
6 that is the manner in which you are asking
7 questions, in my opinion. And I have advised you
8 previously please try to ask questions rather than
9 make statements.

10 If you would do your best to ask a question
11 that is in the form of yes or no first, then I
12 might be able to more effectively constrain the
13 witness to a shorter answer, which is yes, no, with
14 a clarification.

15 It may be difficult because of the nature of
16 your questions, but you continue to make statements
17 with an intonation that sounds like a question but
18 I am having difficulty hearing your question.

19 MR. SMITH: I apologize.

20 COMMISSIONER POLMANN: Yes, sir. But just as
21 a point of advice for you to get the answer and
22 then to help us move along without too much
23 elaboration.

24 MR. SMITH: Okay.

25 BY MR. SMITH:

1 **Q One last question.**

2 **So based on the request for 12 staff, isn't it**
3 **true you are stating that there should be four vacancies**
4 **at all times?**

5 **A Bear with me a minute here. Let me check**
6 **something.**

7 **No, that's not right. I mean, that's -- and**
8 **that's why I had to double check my schedule. When I**
9 **made the adjustments for vacancy, I removed three**
10 **positions, the equivalent of three levels of pay.**

11 **Q So 12 staff members at all times, you are**
12 **reducing the staffing by three employees?**

13 **A I am accounting for vacancies that occur in**
14 **the regular payroll, but as, again, the overtime still**
15 **reflects the fact that you are short of people. And I**
16 **will go back, if you desire on the CAJ-23 and tell you**
17 **how I got the nine from that if you need me.**

18 **Q No. I think I understand your position on**
19 **that.**

20 **COMMISSIONER POLMANN: By the way, Mr. Smith,**
21 **your last question was not in the form of a**
22 **question.**

23 **BY MR. SMITH:**

24 **Q Moving on to the pension plans. Can you**
25 **please identify another utility in the Florida Keys that**

1 **does not have a traditional pension plan?**

2 A I haven't done the research to determine
3 whether they had traditional plans. And the problem is
4 is what has been termed traditional pension plan by the
5 company is not really what is a traditional pension
6 plan.

7 **Q Is the answer no?**

8 A No -- yes, the answer is no.

9 **Q You will turn to page 34?**

10 A Yes, sir.

11 **Q Going specifically to advertising.**

12 A Yes, sir.

13 **Q You would agree that this is a test year with**
14 **proforma adjustments case, correct?**

15 A Yes, sir.

16 **Q You would agree that the utility is much**
17 **larger in terms of treatment plants than it was three**
18 **years ago, correct?**

19 A I didn't really investigate the size of the
20 plant, so I can't tell you that.

21 **Q Going to materials and supplies.**

22 MR. SAYLER: Is that page 35?

23 MR. SMITH: Correct, page 35.

24 BY MR. SMITH:

25 **Q How many plants were on line in 2014?**

1 A 2014? I don't know.

2 Q Do you see on lines 12 through 15 on page 35
3 that the utility included \$86,041 for materials and
4 supplies in the adjusted test year, an increase of
5 \$54,922 over the prior test year ended December 31,
6 2014, expense of \$31,119. Do you see that testimony?

7 A Yes, sir.

8 Q In 2014, was the plant required to operate
9 AWT?

10 A I can't answer that question.

11 Q In 2014, did the utility have two or three
12 wastewater treatment plants?

13 A I can't -- I think it only had two.

14 Q Okay. In 2017, is the plant required to
15 operate to AWT standards?

16 A I can't address the AWT standards.

17 Q In 2017, are there two or three plants now
18 operating?

19 A I believe there is three now.

20 MR. SMITH: Thank you. I have no further
21 questions.

22 THE WITNESS: Thank you.

23 COMMISSIONER POLMANN: Thank you, Mr. Smith.

24 MR. SMITH: Thank you.

25 MR. SAYLER: I believe it's staff's turn if

1 Q All right. You were asked some questions back
2 on page, I believe, 14 of your testimony about
3 depreciation expense and errors in accumulated
4 depreciation. Do you recall that question -- those
5 questions?

6 A There was a brief and then a question about
7 it, but it didn't get elaborated on.

8 Q Okay. And do you recall being asked questions
9 about S-C-A-D-A, SCADA, Supervisory Control Data
10 Systems; do you recall that?

11 A Yes, sir.

12 Q In the preparation of your testimony, did you
13 review the company's operating permit?

14 A No, I did not.

15 Q And you testified that you thought it was
16 required by the permit?

17 A I just assumed it is because everybody has a
18 SCADA system pretty much.

19 Q Okay.

20 MR. SAYLER: No further questions.

21 And we would like to move into the record his
22 hearing Exhibits 36 through 38, and the errata,
23 130.

24 MS. MAPP: Staff would just like to note that
25 Mr. Schultz's only testified to his direct and he

1 is coming back for surrebuttal, so it might be more
2 appropriate to enter Exhibit 38 at that time.

3 COMMISSIONER POLMANN: I agree. That's what
4 my notes indicate 36 and 37.

5 MR. SAYLER: Sorry, 38 is from the
6 surrebuttal. I apologize. We will wait on 38.

7 COMMISSIONER POLMANN: Okay. We don't have an
8 exhibit already in. Anything to correct for --

9 MR. SAYLER: And moving in 130.

10 COMMISSIONER POLMANN: That's what I am trying
11 to -- okay.

12 MR. SAYLER: May Mr. Schultz be temporarily
13 excused until he comes back for surrebuttal?

14 COMMISSIONER POLMANN: Yes, Mr. Sayler, we
15 will see Mr. Schultz tomorrow, I think, or maybe
16 later tonight, according to some people.

17 THE WITNESS: Thank you.

18 COMMISSIONER POLMANN: Don't go too far.

19 THE WITNESS: I won't.

20 (Witness excused.)

21 COMMISSIONER POLMANN: All right. We have
22 Exhibit 130, which is an errata sheet to Exhibit
23 HWS-1, and we have Exhibits 36 and 37 previously
24 identified in the comprehensive list. We will move
25 those, including the errata sheet, into the record

1 at this time.

2 MR. SAYLER: Yes, sir. And clarification, the
3 errata sheet relates to pages eight, nine and 16 of
4 his prefiled direct testimony as well as HWS-1.

5 COMMISSIONER POLMANN: Okay. Thank you for
6 the clarification.

7 (Whereupon, Exhibit Nos. 36, 37 & 130 were
8 received into evidence.)

9 COMMISSIONER POLMANN: Are we good?

10 MS. MAPP: Staff would now like to call to the
11 stand Marisa Glover.

12 COMMISSIONER POLMANN: Thank you.

13 With the adjustment in witness order that we
14 identified earlier, we will move to staff witness.

15 COMMISSIONER CLARK: What's the estimated
16 time, Mr. Chairman?

17 COMMISSIONER POLMANN: We have the time at
18 4:23. There is some interest in completing the
19 witnesses today. I don't have a particular good
20 feeling about that. I mean, not that I don't feel
21 good about it. I don't have the ability to
22 estimate.

23 Does anybody have -- why don't we take
24 Ms. Glover and we will revisit that issue.

25 MR. SAYLER: Certainly.

1 COMMISSIONER POLMANN: Very good.

2 MS. MAPP: Ms. Glover was not here yesterday
3 when other witnesses were sworn in, so she will
4 need to be sworn in.

5 COMMISSIONER POLMANN: That makes me stand up.
6 Whereupon,

7 MARISA GLOVER
8 was called as a witness, having been previously duly
9 sworn to speak the truth, the whole truth, and nothing
10 but the truth, was examined and testified as follows:

11 COMMISSIONER POLMANN: Ms. Mapp.

12 MS. MAPP: Thank you.

13 EXAMINATION

14 BY MS. MAPP:

15 Q Good afternoon, Ms. Glover.

16 A Good evening.

17 Q Would you please state your full name and
18 business address for the record, please?

19 A My name is Marisa Glover. The address is 2540
20 Shumard Oak Boulevard, Tallahassee, Florida, 32399-0850.

21 Q By whom are you employed and in what capacity?

22 A I am employed by the Florida Public Service
23 Commission as a Regulatory Analyst Supervisor within the
24 Office of Auditing and Performance, and Audit Assist,
25 excuse me.

1 Q And have you prepared and caused to be filed
2 in this proceeding direct testimony on March 27th, 2018,
3 as well as two exhibits MG-1 and MG-2 as identified on
4 the comprehensive exhibit list as 52 and 53?

5 A Yes.

6 Q And on May 4th, 2018, did you prepare and
7 cause to be filed an errata to your testimony and
8 Exhibit MG-1 striking all references to Audit Finding 2?

9 A Yes.

10 Q Why were all references to Audit Finding 2
11 removed from your testimony and MG-1?

12 A We discovered documentation which demonstrated
13 that Keys Energy does credit the bills in August. After
14 doing a sample test and going through, we did look at
15 the December bills and noticed that they were not in the
16 accounts. When we did call Keys, they did say that they
17 are credited every August. After reviewing those, there
18 is a one-line item that it does, in fact, state that the
19 interest is credited toward the electric bill.

20 Q And if I asked you those same questions
21 contained within your direct testimony today, with the
22 addition of your errata, would your answers be the same?

23 A Yes, they would.

24 MS. MAPP: I would note for the record that

25 Ms. Glover's errata was filed in the docket file,

1 provided to all parties, Commissioners and court
2 reporter. And at this time, I would ask that
3 Ms. Glover's previously filed testimony and errata
4 sheet be entered into the record as though read.

5 COMMISSIONER POLMANN: At this time, we will
6 enter into the record Ms. Glover's prefiled direct
7 testimony as though read, including the errata
8 sheet.

9 (Whereupon, prefiled testimony was inserted.)

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ERRATA SHEET

WITNESS: MARISA GLOVER – DIRECT TESTIMONY AND EXHIBIT MG-1

Testimony Errata

<u>Page #</u>	<u>Line #</u>	<u>Change</u>
1	24	Delete "No" Insert: "Yes. I filed testimony in the Fuel and Purchased Power Cost Recovery Clause, Docket No. 20160001-EI."
4	10	"Strike the sentence beginning with "Finding 2"
5	11-12	"Strike the sentence beginning with "Finding 2"
7	10-18	Strike the entire passage

Exhibit MG-1 Errata

<u>Exhibit #</u>	<u>Page</u>	<u>Change</u>
MG-1	6 of 17	Strike the sentence: "Finding 2 discusses our recommended adjustment to Working Capital"
MG-1	7 of 17	Strike the sentence: "Finding 2 discusses our recommended adjustment to Depreciation and Amortization"
MG-1	10 of 17	Delete the entire page

1 **BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

2 **COMMISSION STAFF**

3 **DIRECT TESTIMONY OF MARISA GLOVER**

4 **DOCKET NO. 20170141-SU**

5 **MARCH 27, 2018**

6

7 **Q. Please state your name and business address.**

8 A. My name is Marisa Glover and my business address is 2540 Shumard Oak Boulevard,
9 Tallahassee, FL 32399.

10 **Q. By whom are you presently employed and in what capacity?**

11 A. I am employed by the Florida Public Service Commission (FPSC or Commission) as a
12 Regulatory Analyst Supervisor in the Office of Auditing and Performance Analysis. I have
13 been employed by the Commission since April 2016.

14 **Q. Briefly review your educational and professional background.**

15 A. I received a Bachelor of Science degree in Accounting from the Saint Leo University
16 in 2015, and a Criminology degree from Florida State University in 2008.

17 **Q. Please describe your current responsibilities.**

18 A. Currently, I am a Regulatory Analyst Supervisor with the responsibilities of
19 administering the Tallahassee and Miami District Office, reviewing work load and allocating
20 resources to complete field work and issue audit reports when due. I also supervise, plan, and
21 conduct utility audits of manual and automated accounting systems for historical and
22 forecasted data.

23 **Q. Have you previously presented testimony before this Commission?**

24 A. No

25 **Q. What is the purpose of your testimony today?**

1 A. The purpose of my testimony is to sponsor the staff auditor's report of K W Utilities
2 Corp. (KW or Utility) which addresses the Utility's petition for a rate increase in Docket No.
3 20170141-SU. This auditor's report and a filed revised page are attached to my testimony and
4 are identified as Exhibit MG-1 and MG-2 respectively.

5 **Q. Was this audit prepared by you or under your direction?**

6 A. Yes, it was prepared under my direction.

7 **Q. Please describe the work you performed in this audit.**

8 A. I have summarized the audit work below.

9 Utility Plant in Service (UPIS)

10 Audit Staff reconciled the UPIS accounts presented in the filing to the general ledger.
11 We determined the beginning balance for each account that was established in Order PSC-
12 2017-0091-FOF-SU, issued March 13, 2017. We verified that Commission ordered
13 adjustments were posted to the general ledger. We scheduled plant additions and retirements
14 since the last rate proceeding to determine the UPIS balance as of June 30, 2017. We
15 requested support for the Utility's adjustments and traced them to the filing and general
16 ledger. We recalculated the 13-month average balance. We traced additions and retirements
17 from the general ledger to source documentation and we verified that additions were recorded
18 at original cost and that retirements were properly posted. Finding 1 discusses our
19 recommended adjustments to UPIS.

20 Land and Land Rights

21 We reconciled the land accounts presented in the filing to the general ledger. We
22 determined the beginning balance for each account that was established in Order PSC-2017-
23 0091-FOF-SU. We scheduled utility land additions and retirements since the last rate
24 proceeding to determine the land balance as of June 30, 2017. We recalculated the 13- month
25 average. No exceptions were noted.

1 Accumulated Depreciation

2 We reconciled the accumulated depreciation accounts presented in the filing to the
3 general ledger. We determined the beginning balance for each account that was established in
4 Order PSC-2017-0091-FOF-SU. We verified that Commission ordered adjustments were
5 posted to the general ledger. We scheduled utility accruals and retirements since the last rate
6 proceeding to determine the accumulated depreciation balance as of June 30, 2017. We
7 requested support for the Utility's adjustments and traced them to the filing. We recalculated
8 the 13- month average balance. We calculated accumulated depreciation accruals using the
9 rates authorized in Rule 25-30.140 – Depreciation, Florida Administrative Code (F.A.C.), and
10 compared our balance to the balances in the general ledger and the filing. Finding 1 discusses
11 our recommended adjustments to Accumulated Depreciation.

12 Contributions in Aid of Construction (CIAC)

13 We reconciled the CIAC accounts presented in the filing to the general ledger. We
14 determined the beginning balance for each account that was established in Order PSC-2017-
15 0091-FOF-SU, issued March 13, 2017. We verified that Commission ordered adjustments
16 were posted to the general ledger. We scheduled CIAC additions and retirements since the
17 last rate proceeding to determine the CIAC balance as of June 30, 2017. We recalculated the
18 13-month average balance. We traced the additions and retirements to source documents and
19 the service availability charges to the Utility's Commission approved tariffs. We reviewed
20 CIAC agreements, and inquired about new special agreements, developer agreements, and
21 donated property. No exceptions were noted.

22 Accumulated Amortization of CIAC

23 We reconciled the accumulated amortization of CIAC accounts presented in the filing
24 to the general ledger. We determined the beginning balance for each account that was
25 established in Order PSC-2017-0091-FOF-SU. We verified that Commission ordered

1 adjustments were posted to the general ledger. We scheduled utility accruals and retirements
2 since the last rate proceeding to determine the accumulated amortization of CIAC balance as
3 of June 30, 2017. We recalculated the 13- month average balance. We calculated accumulated
4 amortization of CIAC accruals using the rates authorized in Rule 25-30.140 – Depreciation,
5 F.A.C., and compared our balance to the balances in the general ledger and the filing. No
6 exceptions were noted.

7 Working Capital

8 We reconciled the working capital accounts presented in the filing to the general
9 ledger. We recalculated the 13-month average working capital allowance balance for the
10 filing. Finding 2 discusses our recommended adjustment to Working Capital.

11 Capital Structure

12 We recalculated the cost rates and reconciled the components of the Utility’s capital
13 structure presented in the filing to the general ledger. We recalculated the 13-month average
14 component balances of the capital structure for the filing. We verified customer deposits by
15 tracing additions and refunds to the general ledger and supporting schedules provided by the
16 utility. We recalculated a sample of interest expense paid on customer deposits. No
17 exceptions were noted.

18 Revenues

19 We reconciled the wastewater revenue accounts presented in the filing to the general
20 ledger. We reviewed a sample of customer accounts from the billing register for proper
21 customer classification and use of approved tariffs. We reviewed miscellaneous service
22 charges. We tested the reasonableness of revenues by multiplying the average consumption by
23 the tariff rate for each customer class in the billing register. We reconciled the gallons treated
24 and customer bill counts presented in the filing to the billing register. We agreed the billing
25 register to the billing analysis. Finding 3 discusses our recommended adjustments to Revenue.

1 Operation and Maintenance (O&M) Expenses

2 We verified O&M expenses for the 12-months ended June 30, 2017 by tracing
3 amounts recorded in the Utility's general ledger to the original source documentation. We
4 reviewed invoices for proper amount, period, classification, NARUC account, and recurring
5 nature and compared our balances to the MFR Schedule B-6. Finding 4 discusses our
6 recommended adjustment to O&M.

7 Depreciation and Amortization

8 We reconciled the depreciation and amortization expense accounts presented in the
9 filing to the general ledger. We calculated depreciation and amortization expense for the test
10 year using the rates prescribed in Rule 25-30.140, F.A.C., and compared our amounts to the
11 amounts reflected in the filing. Finding 2 discusses our recommended adjustment to
12 Depreciation and Amortization.

13 Taxes Other than Income (TOTI)

14 We reconciled TOTI expense accounts presented in the filing to the general ledger. We
15 recalculated test year regulatory assessment fees based on audited revenues. We traced real
16 estate and tangible property taxes to source documents. We recalculated payroll taxes. Finding
17 3 discusses our recommended adjustment to TOTI.

18 Proforma Expenses – Hurricane Irma

19 We scheduled all O&M expenses incurred as a result of Hurricane Irma. We traced the
20 invoices to supporting documentation provided by the Utility. All of the expenses were
21 outside of the test year, and not listed in the filing. Finding 5 discusses our recommended
22 adjustments to the Proforma Expenses.

23 **Q. Were there any findings in the auditor's report?**

24 **A. Yes, there were five findings.**

25 **Q. Please review Finding 1.**

1 A. Audit staff recommends that the 13-month average balance of plant should be
2 decreased by \$8,128 to reflect the Commission Ordered Adjustments as per Order PSC-2017-
3 0091-FOF-SU, issued March 13, 2017. Based on these correcting adjustments, audit staff
4 calculates that the 13-month average balance of accumulated depreciation should be increased
5 by \$2,095 and test year depreciation expense should be increased by \$1,048.

6 1) Account 361 Collection Sewers – Gravity: The Commission ordered adjustment
7 was to decrease this account by \$140,054. The Utility decreased this account by \$124,296.
8 The Utility should decrease this account by \$15,758 ($\$124,296 - \$140,054$) to reflect
9 Commission ordered adjustments. The Utility increased this account by \$900 prior to the test
10 year. Audit staff believed this was in error and recommends an additional reduction of \$900.
11 The total adjustment is to decrease this account by \$16,658 ($\$15,758 + \900).

12 2) Account 370 - Receiving Wells: The Commission ordered adjustment was to
13 decrease this account by \$825. The Utility did not make an adjustment. The Utility should
14 decrease this account by \$825 to reflect Commission ordered adjustments.

15 3) Account 371 - Pumping Equipment: The Commission ordered adjustment was to
16 decrease this account by \$11,830. The Utility decreased this account by \$21,344. The Utility
17 should increase this account by \$9,514 ($\$21,344 - \$11,830$) to reflect Commission ordered
18 adjustments.

19 4) Account 380 - Transmission & Distribution Equipment: The Commission ordered
20 adjustment was to decrease this account by \$526,300. The Utility decreased this account by
21 \$525,476. The Utility should decrease this account by \$823 ($\$525,477 - \$526,300$) to reflect
22 Commission ordered adjustments.

23 5) Account 391 – Vehicles: The Commission ordered adjustment was to decrease this
24 account by \$17,926. The Utility decreased this account by \$30,972. The Utility should
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1 increase this account by \$13,046 (\$30,972-\$17,926) to reflect Commission ordered
2 adjustments.

3 6) Account 394 – Laboratory Equipment: The Commission ordered adjustment was to
4 decrease this account by \$5,255. The Utility decreased this account by \$4,911. The Utility
5 should decrease this account by \$344 (\$4,911-\$5,255) to reflect Commission ordered
6 adjustments.

7 7) Account 395 – Power Generation Equipment: The Commission ordered adjustment
8 was to decrease this account by \$12,038. The Utility did not make an adjustment. The Utility
9 should decrease this account by \$12,038 to reflect Commission ordered adjustments.

10 **Q. Please review Finding 2.**

11 A. The 13-month average Working Capital should be decreased by \$20,160. Schedule A-
12 17 in the Utility's MFR filing shows a 13-month average balance of \$2,133,620 for Working
13 Capital. We reviewed the general ledger accounts contained within each of the Working
14 Capital components. The Miscellaneous Current & Accrued Assets component has a 13-
15 month average balance of \$20,160 and includes interest bearing accounts. Typically interest
16 bearing accounts, are excluded from working capital unless the associated interest income is
17 also included in Revenues. The Utility did not include any interest income in revenues for this
18 rate case. Therefore, average working capital should be decreased by \$20,160.

19 **Q. Please review Finding 3.**

20 A. Revenues should be increased by \$20,789, for test year ended June 30, 2017 and test
21 year regulatory assessment fees should be increased by \$935. The Utility recorded \$2,116,468
22 for operating revenues on its general ledger for the test year ended June 30, 2017. Audit staff
23 determined operating revenues to be \$2,353,316. We tested the reasonableness of the utility
24 revenues by multiplying the rates per tariff by the bills per audit and the Kgals per audit. We
25 calculated miscellaneous service charges by multiplying the Commission approved tariff by

1 the initial connection fees and the normal reconnect fees. Accounts 522.1 and 522.2
2 Residential and Commercial Sewers represent the income generated from customers based on
3 metered use. The Utility's filing increases the \$2,130,307 by \$202,220 to \$2,332,527 to adjust
4 revenues that are reflected on Schedule B-3 of the MFR filing. We obtained the Utility's
5 billing register and billing history report to recalculate customer bills. Based on our analysis,
6 the revenues should be increased by \$20,789 (\$2,353,316 -\$2,332,527) and test year
7 regulatory assessment fees should be increased by \$935.

8 **Q. Please review Finding 4.**

9 A. Audit staff recommends reducing O&M expense by \$1,878.

10 1) In Account 711 – Sludge Removal Expense, the MFR Schedule B-6 had a balance
11 of \$339 for February 2017. Audit staff determined that the February 2017 balance should be
12 \$23,862 based on source documents. Account 711 – Sludge Removal Expense should be
13 increased by \$23,523 (\$23,862 - \$339).

14 2) In Account 715 – Purchased Power, the MFR Schedule B-6 had a balance of
15 \$24,518 for February 2017. Audit staff determined that the February 2017 balance should be
16 \$12,997 based on source documents. Account 715 – Purchased Power should be decreased by
17 \$11,521 (\$24,518 - \$12,997).

18 3) In Account 720 – Materials and Supplies, the MFR Schedule B-6 had a balance of
19 \$17,517 for February 2017. Audit staff determined that the February 2017 balance should be
20 \$5,737 based on source documents. Account 720 – Materials and Supplies should be
21 decreased by \$11,780 (\$17,517 - \$5,737).

22 4) In Account 775 – Miscellaneous Expense, the Utility recorded transactions of
23 \$2,100 for social club dues, which are not recoverable expenses, and unsupported transactions.
24 Account 775 – Miscellaneous Expense should be decreased by \$2,100.

25 **Q. Please review Finding 5.**

1 A. The information is provided for staff's consideration. The Utility submitted all
2 invoices, contracts, and insurance claims associated with Hurricane Irma that landed in Key
3 West on September 10, 2017. Audit staff reviewed all of the submitted documentation totaling
4 \$117,333 provided by Utility. Audit staff removed two invoices with a combined total of
5 \$305. The first invoice was for \$75 and was removed due to the description of purchased
6 alcohol on the invoice. The second invoice was for \$230 and the description stated that it was
7 for dinner and drinks. This invoice was not itemized and we could not determine the amount
8 of alcohol purchased. We have accepted the amount of \$117,028 in proforma expenses.

9 **Q. Does this conclude your testimony?**

10 A. Yes.

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1 MS. MAPP: I would tender this witness for
2 cross-examination -- oh, I am sorry, no, I do not.

3 COMMISSIONER POLMANN: Does she have a
4 summary?

5 MS. MAPP: Yes.

6 BY MS. MAPP:

7 Q Ms. Glover, would you provide a summary of
8 your testimony today?

9 A Good evening, Commissioners. My name is
10 Marisa Glover. I am the Audit Manager of staff on the
11 staff audit for KW Resort that was conducted in this
12 docket.

13 The audit report was issued February 1st,
14 2018, containing five findings, and it is attached to my
15 testimony and Exhibit MG-1. There was an errata filed
16 on May 4th, 2018, striking Finding 2. Exhibit MG-2 also
17 attached to my testimony is a revision of filing --
18 Finding 1.

19 I am here to sponsor these exhibits and to
20 answer any questions you may have.

21 MS. MAPP: At this time, I would like to
22 tender the witness for cross-examination.

23 COMMISSIONER POLMANN: Like right now?

24 MS. MAPP: Yes.

25 COMMISSIONER POLMANN: Okay. Let's start with

1 the utility.

2 MR. FRIEDMAN: Thank you, Commissioner.

3 EXAMINATION

4 BY MR. FRIEDMAN:

5 Q Ms. Glover, isn't your discussion in Finding 1
6 a concern whether KW Resort Utility made the Commission
7 ordered adjustments in the last rate case?

8 A Can you repeat that?

9 Q Yes. In your discussion of Audit Finding 1,
10 doesn't that relate to whether KW Resort made the
11 Commission adjustments?

12 A It does.

13 Q And in preparation of your testimony today,
14 have you reviewed Ms. Swain's rebuttal testimony where
15 she responds to Audit Finding 1?

16 A I have.

17 Q And did you review her -- the exhibits that
18 were also attached to her testimony?

19 A I have.

20 Q And didn't the prior PAA order agree with the
21 way the utility adjusted its books to increase plant and
22 accumulated depreciation?

23 A Ask that again.

24 Q Isn't it true that, in the PAA order in the
25 last rate case, that the staff agreed to the utility's

1 adjustment to increase plant by 160,823 and accumulated
2 depreciation by 45,676?

3 A That is what the order states.

4 Q And are you now saying that that's not -- that
5 wasn't the correct way to book those amounts?

6 A Are you asking me about the amounts or how
7 they were booked?

8 Q How they were booked.

9 A Correct. I am saying that they were not
10 correct.

11 Q Even though they were consistent with the PAA
12 order?

13 A The amount was correct with the PAA order.

14 Q Well, what was incorrect, then?

15 A The accounts that they were booked in.

16 Q All right. The next was Audit Finding 3. And
17 as I understand, is it correct that Audit Finding 3, you
18 have suggested adjustments to test year revenues -- in
19 making your adjustments to test year revenues, isn't it
20 true that you do not include adjustments or credits to
21 bills?

22 A The adjustment and -- the adjustment to the
23 measured residential and commercial revenues, we did
24 include credits.

25 Q You did include credits that were actually

1 **made and adjustments that were previously made to bills?**

2 A We included what was provided to us, yes.

3 **Q Isn't it true that the \$9,623 that you**
4 **suggested in adjustments was actually for miscellaneous**
5 **service charges in the prior test year?**

6 A For service revenues, yes.

7 **Q And did you make that adjustment when you did**
8 **your audit?**

9 A Yes.

10 **Q And so you would agree that that amount of**
11 **revenue should not be included in the test year**
12 **revenues, correct?**

13 A Yes. We are accepting the \$9,982 for the
14 regulatory assessment fees of 935 would only be
15 increased by 486. After the information was given to us
16 from Ms. Swain's rebuttal, we did go back and review it.

17 **Q Okay. Thank you.**

18 A You're welcome.

19 COMMISSIONER POLMANN: Anything further?

20 MR. FRIEDMAN: Nothing further.

21 COMMISSIONER POLMANN: Okay. Public Counsel?

22 MR. SAYLER: No questions.

23 COMMISSIONER POLMANN: Monroe County?

24 MS. HALL: No questions, sir.

25 COMMISSIONER POLMANN: Commissioners?

1 COMMISSIONER CLARK: No questions.

2 COMMISSIONER FAY: A quick question.

3 COMMISSIONER POLMANN: Commissioner Fay.

4 COMMISSIONER FAY: Ms. Glover, what time is
5 your flight?

6 THE WITNESS: It's tomorrow morning.

7 COMMISSIONER FAY: We might have more
8 questions for you.

9 THE WITNESS: Okay.

10 MR. FRIEDMAN: We would have been easy on you
11 if you had to be at the airport.

12 THE WITNESS: That's fine. I am okay.

13 COMMISSIONER FAY: Thank you, Ms. Glover.

14 COMMISSIONER POLMANN: Redirect?

15 MS. MAPP: Briefly.

16 FURTHER EXAMINATION

17 BY MS. MAPP:

18 Q Ms. Glover, you were asked about the
19 Commission order adjustments from the last rate case by
20 Mr. Friedman. Do you recall that?

21 A Yes.

22 Q You stated that the amount was correct but
23 that they were booked to the wrong accounts?

24 A Correct.

25 Q Could you please elaborate on what you mean

1 **when you stated that they were booked to the wrong**
2 **accounts?**

3 A The Commission order adjustments were not
4 booked to the correct accounts, therefore, accumulated
5 depreciation balance and the depreciation expense would
6 rise or fall over a period of time, and the true net
7 book value of plant would be different, which then would
8 roll into rate base due to the fact that they do have
9 different depreciation rates.

10 MS. MAPP: Thank you. No further questions.

11 THE WITNESS: You're welcome.

12 COMMISSIONER POLMANN: Let me follow up.

13 I heard what you said, but I don't understand
14 it so let me ask a related question.

15 What is the fallout result of correcting the
16 account?

17 THE WITNESS: It would correct accumulated
18 depreciation, because basically the way that the
19 rates are, were accumulating at a different
20 times -- or at different rates, therefore, the
21 dollar amount over a period of time is going to be
22 different. It's going to offset your books.

23 COMMISSIONER POLMANN: And is there an effect
24 on a revenue requirement in rate schedules?

25 THE WITNESS: For the revenue requirement?

1 Repeat that.

2 COMMISSIONER POLMANN: As a result of the
3 fallout from the correction?

4 THE WITNESS: Right.

5 COMMISSIONER POLMANN: Is there necessarily an
6 impact or consequence to a revenue requirement?

7 THE WITNESS: I am not sure.

8 COMMISSIONER POLMANN: Okay. Thank you.

9 THE WITNESS: You're welcome.

10 COMMISSIONER POLMANN: Exhibits?

11 MS. MAPP: Yes, staff would request to enter
12 into the record exhibits marked on the
13 comprehensive exhibit list as No. 52 and 53 into
14 the record.

15 COMMISSIONER POLMANN: Inclusive of her
16 errata, or are we identifying them separately?

17 MS. MAPP: Excuse me, the errata was
18 previously entered in conjunction with her prefiled
19 direct testimony.

20 COMMISSIONER POLMANN: Okay. So at this time,
21 we will enter into the record Ms. Glover's exhibits
22 identified previously in the comprehensive list as
23 No. 52 and 53.

24 MS. MAPP: Thank you.

25 (Whereupon, Exhibit Nos. 52-53 were received

1 into evidence.)

2 COMMISSIONER POLMANN: Okay. If we have
3 nothing further for Ms. Glover --

4 MS. MAPP: We would ask that she be excused.

5 COMMISSIONER POLMANN: She is excused.
6 Stay as long as you want, or safe travels.

7 THE WITNESS: Thank you.

8 (Witness excused.)

9 COMMISSIONER POLMANN: Do we have any more
10 witnesses on direct?

11 MS. HELTON: No, sir.

12 COMMISSIONER POLMANN: Thank you. I didn't
13 think so.

14 Do we have four witnesses for rebuttal?

15 MR. SMITH: That is correct. And in working
16 with the other parties regarding revising the order
17 for two of the shorter witnesses to go and get them
18 done right now, and then potentially have either
19 get Debbie Swain or Chris Johnson, one of the
20 longer done, and see where we are at. Talk is the
21 cross-examinations of Ed Castle and Bob Pabian are
22 short.

23 COMMISSIONER POLMANN: Okay. Thank you.

24 Could you identify the order, one, two, three,
25 four?

1 MR. SMITH: Certainly.

2 So we are going to move Ed Castle to the first
3 rebuttal witness, Robert Pabian as the second
4 rebuttal witness. Then Debbie -- Deborah Swain as
5 the third rebuttal witness, and finally Christopher
6 Johnson as the fourth.

7 COMMISSIONER POLMANN: Okay. The parties are
8 all in agreement with this?

9 MR. WRIGHT: Yes, sir.

10 MR. SAYLER: Yes, sir.

11 COMMISSIONER POLMANN: Staff, we are on board
12 here?

13 MS. MAPP: Yes.

14 COMMISSIONER POLMANN: And we will have
15 surrebuttal following that, is that the
16 understanding?

17 MR. SAYLER: Yes, sir.

18 COMMISSIONER POLMANN: Okay. Do you have an
19 order identified, Mr. Woodcock and Mr. Schultz?

20 MR. SAYLER: Yes, sir.

21 COMMISSIONER POLMANN: You are going to keep
22 me in the dark?

23 MR. SAYLER: Sorry. Yes, sir. It's Woodcock
24 followed by Schultz.

25 COMMISSIONER POLMANN: Thank you.

1 MR. SAYLER: That's our --

2 COMMISSIONER POLMANN: Should we take five
3 minutes?

4 MS. HALL: Yes, sir.

5 COMMISSIONER POLMANN: Thank you. We are in
6 recess, off the record for five minutes.

7 Please be back in five minutes.

8 (Brief recess.)

9 COMMISSIONER POLMANN: We are back on the
10 record.

11 We are in rebuttal. Utility, Mr. Smith, the
12 floor is yours.

13 MR. SMITH: Thank you.

14 Two of our rebuttal witnesses were not here
15 yesterday to be sworn. If Mr. Castle and
16 Mr. Pabian can stand and you can swear them in,
17 that would be fantastic. We will get them both in
18 at once.

19 COMMISSIONER POLMANN: Mr. Castle and
20 Mr. Pabian, I am sorry you just sat down and now
21 you need to stand up.

22 THE WITNESS: That's okay.

23 COMMISSIONER POLMANN: Raise your right hand.

24 (Whereupon, Ed Castle and Robert Pabian were
25 sworn.)

1 COMMISSIONER POLMANN: Thank you. Please be
2 seated.

3 Mr. Smith, you my proceed.

4 MR. SMITH: Thank you.

5 Whereupon,

6 EDWARD CASTLE

7 was called as a witness, having been previously duly
8 sworn to speak the truth, the whole truth, and nothing
9 but the truth, was examined and testified as follows:

10 EXAMINATION

11 BY MR. SMITH:

12 Q **Good late afternoon, Mr. Castle.**

13 A Excuse me?

14 Q **Good late afternoon to you.**

15 A Thanks.

16 Q **Can you please state your name and spell your
17 last name for the record?**

18 A My name is Ed Castle. That's C-A-S-T-L-E.

19 Q **Have you prepared prefiled rebuttal testimony
20 in this matter?**

21 A Yes, I have.

22 Q **Do you have any corrections or changes to that
23 prefiled testimony?**

24 A No, I don't.

25 Q **Did you also prefile exhibits in this matter?**

1 A I believe I did, yes.

2 **Q Can you look at your testimony and identify**
3 **those exhibits? Just to help you along, it's on page**
4 **two, line 10 and 11.**

5 A Okay.

6 **Q I am sorry, page one, line 10 and 11, and**
7 **ERC-1 and ERC-2.**

8 A Yes, I did. And as you said ERC-1 and ERC-2,
9 that was a letter from November regarding sole source
10 for Evoqua.

11 COMMISSIONER POLMANN: Sir, you need to get
12 that as close to your -- as close up to the mic as
13 you can. Feel free to move that.

14 THE WITNESS: Okay. Is that better?

15 COURT REPORTER: Yes.

16 THE WITNESS: Thank you.

17 BY MR. SMITH:

18 **Q If you could state those two exhibits again.**
19 **What exhibit numbers are they?**

20 A Excuse me, I didn't hear that.

21 **Q What exhibit numbers are they?**

22 A It's ERC-1 and ERC-2.

23 **Q Thank you.**

24 MR. SMITH: At this juncture, I would move
25 Edward Castle's testimony in as if though read.

1 COMMISSIONER POLMANN: At this time, we will
2 move -- enter into the record Edward Castle's
3 prefiled rebuttal testimony into the record as
4 though read.

5 (Whereupon, prefiled testimony was inserted.)

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

2 A. My name is Edward R. Castle. I am Vice President of Weiler Engineering Corporation, and
3 Director of its wastewater division. My business address is 6805 Overseas Highway,
4 Marathon, Florida 33050.

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

6 A. No, I have not.

7 **Q. Have you previously filed testimony in Utility Rate Case Proceedings before the Florida
8 Public Service Commission?**

9 A. Yes. I provided testimony in Docket No. 150071-SU, as well as Docket 070293-SU.

10 **Q. Are you sponsoring any exhibits?**

11 A. Yes, I am sponsoring the following exhibits: Exhibit ERC-1, my resume; Exhibit ERC-2, the
12 November 29, 2016 letter I prepared providing my justification why Evoqua should be
13 considered a sole source provider for the wastewater treatment plant rehabilitation.

14 **Q. Were these Exhibits prepared by you and your staff?**

15 A. Yes they were.

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

17 A. The purpose of my rebuttal testimony is to respond to the Office of Public Counsel witness
18 Andrew T. Woodcock's assertions that there was no reason to deviate from the standard
19 requirement that three competitive bids be obtained, with regard to the wastewater treatment
20 plant rehabilitation construction.

21 **Q. Why did you determine that Evoqua should be considered a sole source provider for the
22 wastewater treatment plant rehabilitation project?**

23 A. I detail the reasons for this conclusion within Exhibit ERC-2, the November 29, 2016 letter
24 entitled "Rehabilitation of Existing Evoqua WWTP Trains". Firstly, detailed structural
25 drawings for the plant are not available, and the fabrication of substitute components could

1 result in inadequate structural strength and potential structural failure.

2 **Q. Mr. Woodcock contends that if detailed structural drawings are not available, it is safe**
3 **to assume they are also not available to Evoqua, giving Evoqua no advantage over**
4 **another contractor. Do you agree with this statement?**

5 A. No, I do not. Mr. Woodcock's assumption that the detailed structural drawings are not available
6 to Evoqua is incorrect. Evoqua was the original designer of the two treatment trains in question
7 and fabricated the individual structural components. This effort would have included the
8 production of structural detail drawings and specifications for those individual components.
9 That information belongs to Evoqua and is not available to KWRU, Weiler Engineering or to
10 other potential WWTP fabricators.

11 **Q. Are there other reasons for your determination that Evoqua should be considered a sole**
12 **source provider for the project?**

13 A. Yes. Evoqua provided the two treatment trains which required rehabilitation, and designed
14 them specifically for the Stock Island service area and to meet the specific raw wastewater
15 characteristics associated with the system. The planned rehabilitation will require that the
16 structural components, piping and mechanical systems to be replaced. If another contractor
17 were to manufacture and install components without adequate knowledge and understanding
18 of the specific influent characteristics and the non-standard biological process that the
19 treatment trains use to achieve AWT, inadvertent changes to the process may be made. Evoqua
20 was intimately involved with the design of the AWT conversion of the two existing trains and
21 helped to ensure that physical and mechanical systems would function to achieve AWT. Other
22 contractors would not have that knowledge and understanding.

23 **Q. Mr. Woodcock contends that there is nothing particularly unique about these treatment**
24 **trains. Is that true?**

25 A. No, it is not. Field erected treatment plants are unique. They are designed to accommodate

1 the specific flows and influent characteristics for the area to be served. The two treatment
2 trains were originally designed to provide extended aeration secondary treatment with filtration
3 and high-level disinfection. The treatment trains have since been modified by Evoqua to
4 provide advanced wastewater treatment, including nitrogen and phosphorus removal, along
5 with filtration and high-level disinfection. The nitrification-denitrification process used in
6 these two trains is a custom-designed post-anoxic process with final reaeration. The process
7 in not one of the standard biological nitrogen removal processes such as the MLE, the A²O, the
8 Bardenpho or the UTC processes more commonly used for biological nitrogen removal.

9 **Q. Mr. Woodcock further states that the work involved with the rehabilitation will not**
10 **materially change the treatment process of the plants, and that another competent**
11 **contractor (such as ECO-2000, Inc., Florida Environmental Construction, Inc., or others)**
12 **could perform the rehabilitation. Is that true?**

13 A. Mr. Woodcock is correct that the rehabilitation work will not materially change the treatment
14 processes, provided that the components are replaced without unintended modifications to the
15 structural, mechanical and biological systems. His contention that another competent
16 contractor could perform the work is not correct, to the extent that another contractor would
17 not have access to the detailed drawings and specifications needed to fabricate the structural
18 and mechanical components that are a part of the rehabilitation. The existing corroded
19 structural and mechanical components that are to be replaced must be replaced in kind. The
20 replacement structural components need to be fabricated to the exact dimensions and technical
21 specifications as the originals. Without access to the detailed structural drawings and
22 specifications, it would be highly impractical for another contractor to fabricate the
23 components and then field install them.

24 **Q. As further justification, you stated in Exhibit ERC-2 that each treatment train was**
25 **designed with specific hydraulic detention times, oxygen transfer efficiencies, biological**

1 **uptake rates and sludge setting characteristics necessary to achieve AWT treatment, and**
2 **that modifications to the flow characteristics or oxygen transfer rates may negatively**
3 **impact the systems' abilities to meet the AWT treatment requirements. Why does this**
4 **mitigate for Evoqua as a sole source?**

5 A. As previously stated, Evoqua is the only potential provider with access to the detailed designs
6 and specifications for the replacement components. If replacement components do not match
7 the dimensions, configurations and functions of the existing components, the potential exists
8 to change flow patterns, detention times, depth of submergence and other factors which can
9 affect oxygen transfer, detention times, flow patterns and potentially other characteristics of
10 the treatment system, which in turn can affect the biological treatment process.

11 **Q. Mr. Woodcock states that from his review of the proposal from Evoqua, there is nothing**
12 **in the project that will change or alter the AWT process, or result in modifications of the**
13 **flow characteristics or oxygen transfer rates of the facility, and that even if those concerns**
14 **existed, any Professional Engineer with experience in wastewater design can make the**
15 **appropriate process design calculations and provide signed and sealed documents that**
16 **certify the ability of the plants to continue to meet AWT standards after the**
17 **rehabilitation. How do you respond to those statements?**

18 A. The process design calculations were prepared and submitted to the FDEP for permitting prior
19 to the modification of the treatment trains to achieve AWT. Those same calculations are
20 available now. However, a major rehabilitation project, carried out using replacement
21 components fabricated without the original detailed dimensions and specifications, may not
22 result in identical flow patterns, detention times and biological reaction rates as currently
23 provided and which have been demonstrated to achieve AWT treatment. To wait until the
24 rehabilitation project has been completed and to then have a professional engineer use the as-
25 built data to perform calculations that may, or may not, demonstrate that the rehabilitated

1 facilities will achieve AWT treatment is a backwards approach. The intent of the project is to
2 perform a rehabilitation project that will result in treatment trains that perform the same after
3 the rehabilitation project as prior to the rehabilitation project. If the rehabilitation project is
4 correctly performed, the process calculations used for the design of the facilities will be
5 unchanged.

6 **Q. Are there other reasons Evoqua should be considered a sole source provider?**

7 A. Yes, there are. In ERC-2, I identify that these treatment units are unique mechanical systems
8 comprised of numerous interconnected components that must function as a whole. Because no
9 detailed drawings are available to contractors other than Evoqua, fabrication of substitutes
10 would likely result in improper fit without detailed dimensional drawings. In addition to the
11 repair and replacement of structural and mechanical components, the scope of work also
12 includes replacing the existing fixed fine bubble diffusers with removable fine bubble diffusers
13 in the aeration zones of both plants. The diffusers are critical to the treatment process and can
14 significantly impact air flow rates and oxygen transfer efficiencies. Evoqua designed the
15 aeration system as part of the upgrade to AWT. The calculations of oxygen demand and
16 necessary air flow rates and oxygen transfer efficiencies were performed by Evoqua. The
17 diffuser system was then designed by Evoqua to provide the necessary air flow rate and oxygen
18 transfer efficiencies using the existing centrifugal blowers. The utilization of a contractor other
19 than Evoqua creates a risk that the replacement diffuser system will not function properly.
20 Small changes in the submergence depth, friction losses in the diffuser piping, and head losses
21 across the diffuser membranes can all impact air flow rates, and bubble size variations and
22 aeration pattern changes affect oxygen transfer efficiencies. Changes in air flow rates or oxygen
23 transfer efficiencies can prevent the treatment trains from achieving AWT quality treatment,
24 as required by KWRU's operating permit.

25

1 **Q. Mr. Woodcock stated that this is “not rocket science”, and that with proper field**
2 **investigation, specifications, and construction submittal review, an experienced**
3 **contractor can provide the services without compromising structural integrity. Do you**
4 **agree with this statement?**

5 A. While it is possible, it is not likely, and would be prohibitively expensive. In order for a
6 contractor to successfully fabricate the needed structural components, engineering drawings
7 showing detailed dimensions of each component would need to be produced. This would
8 require detailed field measurements both of exterior components and interior, submerged
9 components. Each treatment train would need to be taken out of service, emptied and cleaned.
10 Emptying and cleaning of first one train, and then the other, including disposal of sludge, grit
11 and debris, would incur a substantial cost. The engineering field work to obtain dimensions
12 and metal thicknesses would be time consuming and expensive, and given the current state of
13 corrosion of some components, may not provide accurate dimensions. Drafting and review of
14 the details would take a considerable amount of additional time, as would the compilation of
15 the associated technical specifications. It would also expose KWRU to the possibility of delays
16 and change orders should some of the field-gathered dimensions prove to be inaccurate due to
17 loss of material due to corrosion.

18 **Q. Mr. Woodcock states that none of the reasons stated in ERC-2 preclude any other**
19 **provider of treatment plant rehabilitation services from providing the service, and that**
20 **none of the reasons you provided are an impediment to competitively bidding the**
21 **projects. Do you believe you have provided sufficient justification for Evoqua to serve as**
22 **a sole source provider?**

23 A. Yes, I do. As stated, each structural and mechanical component that is fabricated or provided
24 must be an exact match when the field rehabilitation begins. Expecting any contractor other
25 than Evoqua to perform the rehabilitation cost-effectively would be similar to expecting any

1 auto body shop to be able to repair a wrecked car without the ability to buy fenders, bumpers,
2 radiators, etc. from the manufacturer, but rather to fabricate components and to do so without
3 detailed drawings and specifications. It is not a reasonable expectation.

4 **Q. In your experience, can the competitive bidding process cause a bidder to bid higher due**
5 **to the cost of bid preparation or other factors?**

6 A. Yes, it can. In typical competitive bids, the cost of preparing a formal quote with project
7 approach, qualifications statements, relevant experience history, equipment lists, references
8 and provision of a bid bond will add cost that the bidders will try to recover in the bid price.
9 Communications in a formal bid process are also restricted which can inhibit a full
10 understanding of the expected scope of work, so bidders have more uncertainties in the actual
11 cost of the work. Bidders will typically either include some extra costs for unknowns, or they
12 may bid the project with a minimal scope and depend on change orders to recover any
13 unanticipated effort required to complete the work. Either approach can result in a higher cost
14 for the project than one where open communication between the project representatives and
15 the prospective bidder allow for development of a full understanding of the project scope.

16 **Q. Was there any “value engineering” inherent in the process of developing a scope of work**
17 **for Evoqua?**

18 A. KWRU and Weiler Engineering staff met onsite together and with Evoqua representatives to
19 discuss the project and to develop the scope of work. Having the plant operations personnel
20 work with the owner’s engineers to ensure that all rehabilitation issues were identified,
21 followed by site meetings with Evoqua technicians, resulted in a scope of work that guarantees
22 that the needs of the operators are met, that sound engineering is followed and that the project
23 is constructible. Without input from contractors, projects may suffer from constructability
24 issues, which increases project costs.

25

1 **Q. Is it your position that any bids received from a third party would have been substantially**
2 **higher than the cost of the Evoqua contract?**

3 A. Yes. Contractors experienced with rehabilitations of WWTPs would recognize that, without
4 detailed dimensional drawings and specifications, the project would require extensive field
5 work prior to the start of fabrication to gather dimensional data and to produce shop drawings
6 for the fabrication. They would also recognize that the fabricated structural components would
7 have an increased likelihood of having improper fit when field erection commenced. That
8 would result in costs for re-fabrication of components and the associated delays that would
9 need to be recovered in the bid price. It is possible that an unscrupulous or unqualified
10 contractor would bid low with the intent of increasing the project cost after award through
11 change orders. In either case, the ultimate cost of the project would be higher than entering
12 into a contract with Evoqua, who has the detailed drawings for the structural components.

13 **Q. Do you have anything more to add regarding the statements of Mr. Woodcock, regarding**
14 **the assertion that the rehabilitation project should have been competitively bid?**

15 A. No

16 **Q. Have you reviewed the chart at Exhibit ATW-5, Page 1, related to engineering costs for**
17 **the wastewater treatment plant?**

18 A. Yes, I have.

19 **Q. Are the adjustments provided in that chart correct?**

20 A. Yes, they are.

21 **Q. Do these amounts represent engineering fees for KWRU's capital projects for its plant in**
22 **service?**

23 A. Yes, they do.

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

25 A. Yes, it does.

1 BY MR. SMITH:

2 Q Mr. Castle, have you prepared a summary of
3 your testimony?

4 A Yes, I have.

5 Q All right. If you could read that summary at
6 this time.

7 A The purpose of my rebuttal testimony is to
8 respond to the Office of Public Counsel Witness Andrew
9 T. Woodcock's assertion that there was no reason to
10 deviate from the standard requirement that three
11 competitive bids be obtained for the wastewater
12 treatment plant rehabilitation project.

13 In a letter dated November 29th, 2016, I
14 presented my reasons for recommending to KWRU that
15 Evoqua be considered the sole source provider for the
16 rehabilitation of the two treatment trains originally
17 provided by Evoqua and later upgraded to AWT standards
18 by Evoqua.

19 The reason conclude that steel field erected
20 package plants rely on the interconnected structural
21 components to provide strength. Since the detailed
22 structural drawings for fabrication of the components
23 are not available to other manufacturers, it is my
24 opinion that the expectation that other manufacturers
25 could reproduce the components without additional

1 expense with potential errors in fabrication.

2 And further, Evoqua converted the original
3 standard aeration treatment trains into AWT trains using
4 a process custom designed by Weiler Engineering. It is
5 not standard, off-the-shelf AWT treatment process as
6 offered by other package plant providers.

7 Mr. Woodcock contends that any of a number of
8 companies could fabricate the needed components without
9 the benefit of detailed shop drawings. That contention
10 is not correct. Evoqua has the detailed shop drawings
11 from the original construction and from the later
12 conversion to AWT, and can fabricate the replacement
13 components to factory specifications ensuring proper
14 fit, sound structural integrity and no unintended
15 changes to the proven AWT process.

16 Mr. Woodcock contends that this is, quote, not
17 rocket science, and with proper field investigation and
18 specifications and review, an experienced contractor
19 could fabricate installed components without adversely
20 impacting the structural integrity of the plants or
21 unintentionally altering the process.

22 While it may be true in theory that detailed
23 field measurements could be taken, the level of
24 corrosion of certain components may preclude such
25 measurements. Mr. Woodcock's suggestion that emptying

1 the two wastewater treatment plants and having engineers
2 take detailed measurements to produce fabrication
3 drawings for each component to be replaced does not take
4 the cost of doing so into consideration.

5 There are expenses including draining and
6 cleaning, taking measurements and the refilling of the
7 first tank, followed by draining, cleaning and taking
8 measurements and refilling the second tank.

9 We would also be required to provide detailed
10 structural calculations for both static and live loads
11 with tanks empty, at normal operational levels and at
12 maximum fill while being subjected to 180-mile-an-hour
13 winds and hydrodynamic forces associated with potential
14 storm surge. These calculations must be performed
15 according -- as required by the Board of Professional
16 Engineers under 61g15.

17 The research of materials meets the
18 fabrication provided technical specifications would be
19 needed, including details of welding types, steel
20 materials, rod materials and fabrication techniques.

21 Production of dimensional fabrication drawings
22 by the engineers would be expensive as well. Production
23 of factory shop drawings by the vendor, followed by
24 review and approved by the engineers has additional
25 costs. And then factory setup to reproduce components

1 in accordance with the approved drawings by a factory
2 that wasn't previously tooled for that production would
3 add additional costs, in my opinion.

4 It's very unlikely that proceeding along this
5 course will result in both acceptable product at a lower
6 cost for competitive bidding. In addition to this
7 process being costly and time-consuming, a very real
8 potential for mismeasurement or misfabrication exists.
9 For these reasons, it's my opinion that proceeding with
10 Evoqua as the sole source provider for the
11 rehabilitation of the two plants is in the best interest
12 of both the utility and its customers.

13 MR. SMITH: Thank you.

14 At this juncture, I tender the witness for
15 cross-examination.

16 COMMISSIONER POLMANN: Thank you, Mr. Smith.

17 Mr. Sayler, are you beginning? Yes, thank
18 you.

19 MR. SAYLER: Yes.

20 COMMISSIONER POLMANN: Go ahead.

21 EXAMINATION

22 BY MR. SAYLER:

23 Q Good evening, Mr. Castle. Good to see you
24 again.

25 Question: On your summary, you said that --

1 or you speculate that somebody else would actually --
2 bidding out this project, they wouldn't know how --
3 forgive me if I have mischaracterized your summary, but
4 you speculate that somebody other than Evoqua wouldn't
5 really know how much it would cost -- or excuse me, let
6 me rephrase that.

7 You state that it would likely or possibly
8 cost more to have competitively bid this project out, is
9 that accurate?

10 A That's accurate, considering all the
11 additional work that would go into producing engineered
12 drawings and specifications.

13 Q And that is your understanding as a
14 professional engineer, correct?

15 A Yes.

16 Q But this project was not sent out for bid,
17 correct?

18 A Could you repeat that?

19 Q This project was not actually sent out for --
20 there was not an RFP for this project sent out, correct?

21 A No, there was not.

22 Q Okay. So based upon no competitive bidding,
23 you don't actually know, you are assuming that it would
24 cost more to bid it out?

25 A That's correct. I am basing my assumptions on

1 what I consider to be sound practice and experience.

2 Q Okay. Mr. Smith has a copy of Mr. Woodcock's
3 testimony there by your right hand. And in preparing
4 your testimony, you reviewed Mr. Woodcock's testimony
5 and exhibits, correct?

6 A Yes.

7 Q And if you will look at ATW-4 page one of one.
8 It's already turned there. You got it right there.

9 A Okay.

10 Q And I will give a moment for the others who
11 would like to turn to Mr. Woodcock's ATW-4, page one of
12 19. If you will take a moment to review that while they
13 turn to it.

14 MR. SAYLER: I am ready to ask questions, but
15 I wanted to check to make sure everyone is on the
16 same page.

17 COMMISSIONER POLMANN: Okay. Proceed.

18 BY MR. SAYLER:

19 Q All right. Referring to ATW-4, page one of
20 19 -- are you there, Mr. Castle?

21 A Yes.

22 Q All right.

23 COMMISSIONER POLMANN: The numbers are at the
24 top of the page, sir.

25 THE WITNESS: Thank you. I see it.

1 BY MR. SAYLER:

2 Q All right. And you would agree that this a
3 bid information and budget breakdown sheet from
4 Utilities Inc., correct?

5 A It appears to be, yes.

6 Q Okay. And you see that it says, under the
7 column bid, that there are one, two, three bids;
8 correct?

9 A Yes.

10 Q And Evoqua was one of those companies,
11 correct?

12 A Yes.

13 Q And their bid was \$1,526,000, and you would
14 agree that the next company, ECO 2000, had a bid of a
15 little more than \$1.7 million; do you see that?

16 A Yes, I do.

17 Q All right. And then FEC was the third bidder
18 at \$1.695 million, is that correct?

19 A Yes.

20 Q All right. And Evoqua, in this case -- or in
21 the Utilities Inc. case, was selected as the vendor; do
22 you see that?

23 A I do.

24 Q All right. Do you know if Evoqua was the
25 company that also designed that water -- wastewater

1 treatment plant?

2 A I don't know that. I couldn't find that in
3 the documents.

4 Q All right. Do you know if ECO 2000 was the
5 one who designed that plant?

6 A I don't know that either.

7 Q Same question for FEC?

8 A And I don't know that either.

9 Q All right. And you would expect that these
10 three companies would bid on this work, it would be
11 reasonable to assume that they would know how to match
12 the dimensions, configuration, the wind load testing, do
13 all the things you summarized in your testimony, you
14 would assume that those three companies could do that,
15 correct?

16 A I would assume they have engineers on staff
17 that could do that, yes.

18 Q All right. And when it comes to these dollar
19 amounts, the 1.5 million, the 1.7 million, the 1.69
20 million, would you agree that, mathematically speaking,
21 the difference between the 1.5 million and the 1.7
22 million is roughly 12 percent?

23 A I have seen that calculation. I think it's
24 right.

25 Q All right. Now, getting back to these three

1 bidders. Do you think all three bidders had access to
2 the detailed structural drawings and specifications
3 before they submitted their bid?

4 A I have no way of knowing that.

5 Q Okay. I do have -- if you would turn to ATW-3
6 from Mr. Woodcock's testimony there. It's the same
7 notebook, just turning the page. The next --

8 A Backward. Sorry about that.

9 MR. SMITH: For the record, this is one that's
10 mislabeled. It says ATW-2.

11 MR. SAYLER: I will just give you my copy.

12 THE WITNESS: Okay.

13 BY MR. SAYLER:

14 Q In your review of Mr. Woodcock's testimony,
15 you reviewed this exhibit that he attached?

16 A Could you repeat that, please?

17 Q Sure. Did you review ATW-3 that Mr. Woodcock
18 attached to his testimony when you prepared your
19 testimony?

20 A I looked through it, yes.

21 Q All right. And you would agree that it is
22 screen shots from the three companies that did the bid
23 on the Utilities Inc. wastewater treatment plant rehab
24 project?

25 A Yes.

1 Q All right. And on the ATW-3 with the revised
2 header, page one of five, at the bottom of that
3 paragraph, you see where it says, DAVCO Retrofit Rehab
4 and Replacement Services?

5 A Yes, I do.

6 Q And you would agree that says -- in the last
7 line of that sentence, it says: DAVCO Retrofit and
8 Rehab Services combine the supply of OEM parts, quality
9 parts and equipment compatible with most brands with
10 custom manufacturing in turnkey field construction,
11 correct?

12 A I see that's what it says, yes.

13 Q All right. Is it reasonable to think that
14 those other two companies will provide similar services?

15 A It's reasonable to assume that they can. I
16 don't have any experience with those other companies,
17 but I assume they have qualified engineers and qualified
18 manufacturing facilities.

19 Q And do you know what Evoqua's cost for
20 rehabbing KWRU's rehab or wastewater treatment plant
21 would have been had this project been competitively bid?

22 A I do not.

23 Q Now -- and you don't know if any other
24 contractors, whether these mentioned earlier or other
25 contractors would have been on the project had KW put

1 **this project out to bid?**

2 A I don't have any knowledge of what they would
3 have bid.

4 MR. SAYLER: All right. Thank you. No
5 further questions.

6 COMMISSIONER POLMANN: Thank you, Mr. Sayler.
7 Monroe County.

8 MR. WRIGHT: Thank you, Commissioner.

9 EXAMINATION

10 BY MR. WRIGHT:

11 Q **Good afternoon, Mr. Castle.**

12 A Good afternoon.

13 Q **Nice to see you again.**

14 A Yeah.

15 Q **I am Schef Wright. I represent Monroe County
16 in this case. I have a few questions for you.**

17 I would like to ask you to please turn to page
18 two of your testimony, where you state: Evoqua was the
19 original designer of the two treatment trains in
20 question and fabricated the original structural
21 components. Are you with me there?

22 A You said page two and what line?

23 Q **Page two, lines six and seven.**

24 A Six and seven. Yes, I see that.

25 Q **Thank you.**

1 Do you know approximately when Evoqua designed
2 and fabricated the original components of which you
3 testified?

4 A I know that back then they were called DAVCO,
5 and I believe there was an existing plant, and in 1996,
6 they built the second plant as a second aeration plant.

7 Q Do you know when the first plant was built?

8 A I am not certain.

9 Q Thank you.

10 Do you know whether Evoqua performed the
11 design and fabrication of the original structural
12 components of the plants pursuant to the contracts?

13 A Because it was a DAVCO field erected steel
14 plant, my assumption is that it was. I wasn't involved
15 at that time back in 1996, though.

16 Q Have you ever seen that contract?

17 A No, I haven't.

18 Q Did you ever ask Evoqua to provide you with a
19 copy of that contract?

20 A No, I didn't.

21 Q Why not?

22 A I didn't see a point in it. Since it's a
23 DAVCO plant, I didn't need to see the contract.

24 Q Have you ever seen Evoqua's structural
25 detailed drawings and specifications for the structural

1 **components for the two treatment trains?**

2 A I have seen some of them during construction.
3 They are not transmitted to the utility or the owners,
4 but they do have them generally on-site for the
5 fabrication -- or the field erection, but not the
6 fabrication drawings.

7 Q Do you know whether the contract -- the answer
8 to this will be clear, but do you know whether the
9 contract provides for the release of the structural
10 detailed drawings and specifications of the fabrication
11 work to the owner of the plant?

12 A Are you referring to the 1996 instruction?

13 Q Well, let's take them in seriate; with respect
14 to the 1996 plant?

15 A Okay, the 1996 plant, I haven't seen their
16 proposal.

17 Q Or a contract?

18 A Or a contract.

19 Q What about with respect to the earlier plant?

20 A Right.

21 Q And you haven't seen that contract either?

22 A Yeah, I haven't seen that. The first
23 contracts I would have seen would have been the
24 conversion to AWT.

25 Q And when was that?

1 A 2008 and '09, I believe.

2 **Q Do those contracts provide for the release of**
3 **structural drawings, design drawings and specs to the**
4 **owners of the plant?**

5 A The agreements I saw do not have that
6 requirement in it, no.

7 **Q Is that standard practice in this industry?**

8 A I believe it is in package plant industries,
9 yes.

10 **Q So it's your testimony it's standard practice**
11 **for people to spend -- for utility companies to spend**
12 **hundreds of thousands of dollars, or millions of dollars**
13 **for plants and not get the detailed design drawings?**

14 A They do get design drawings for the structure.
15 They get design drawings at the end showing the
16 as-builts; but we don't get fabrication drawings. We
17 don't get complete details of the dimensions of each
18 component that is eventually welded together. We get
19 general specifications, and we get plan and section
20 views of the tanks, the stiffeners and things of that
21 sort.

22 **Q In other words, does the company -- does the**
23 **utility company who buys the plant -- and this is a**
24 **general question -- do they get enough information to**
25 **hire somebody else to do work on the plant and replicate**

1 the plant if rehab is necessary?

2 A There is not enough information in those
3 drawings to manufacture the components.

4 Q So the answer to my question, do they get
5 enough information, is no; correct?

6 A Correct.

7 Q In leading up to the work being done by Evoqua
8 now, did you specifically ask any other contractor their
9 opinions as to whether they could do the work without
10 the detailed drawings?

11 A I did not.

12 Q On page eight, lines nine through 11, you make
13 the statement: It is possible that an unscrupulous or
14 unqualified contractor would bid low with the intent of
15 increasing the project cost after award through change
16 orders. Do you recall that testimony?

17 A Yes, I do.

18 Q Isn't it true that a utility purchasing such
19 services could guard against this concern by requiring
20 bidders to qualify before submitting their bids?

21 A Typically, if you put a bid out, you ask for
22 contract qualifications.

23 Q Can you define for us what you mean when you
24 refer to potentially unscrupulous contractors?

25 A It's -- I have been working in wastewater

1 construction and design permitting in Monroe County
2 since 1989. I have got a lot of experience with
3 construction, and I have seen contractors come in and
4 bid a job low and have individuals on their staff whose
5 sole purpose is to find vague information in the
6 documents, conflicting information in the documents, and
7 to come in at an increased cost or change orders or
8 claims at the end.

9 Q I am not asking you to name names, but did you
10 speak in connection with this project to any contractors
11 to whom you would regard as potentially unscrupulous, as
12 you just described it, who did indicate an interest in
13 bidding on the project?

14 A For this project, no.

15 Q Did you speak to any contractors whom you
16 would consider to be scrupulous in connection with
17 possibly bidding on this project?

18 A I did not.

19 Q Couldn't you protect against unscrupulous
20 bidders by requiring a not-to-exceed, or an NTE, price
21 on a contract?

22 A I don't believe so. I think the contractors
23 would have a right to file a claim at the end of the
24 project regardless.

25 Q In your experience, isn't it possible to

1 protect against such unscrupulous practices, i.e.,
2 finding loopholes through which to seek change orders by
3 imposing stricter requirements and limitations on change
4 orders?

5 A I would say, in theory, you can attempt to do
6 that, but a contractor can make a claim, and in the end,
7 I think mediation ends up with everybody spending more
8 money.

9 Q Have you heard the expression, a contract is
10 an invitation to negotiate?

11 A Uh-huh.

12 Q Have you experienced that?

13 A Yes.

14 Q Did you get an NTE price from Evoqua in the
15 contract for this work?

16 A Can you repeat that?

17 Q Did you get a not-to-exceed price -- I used
18 the abbreviation NTE. Did you get a not-to-exceed price
19 from Evoqua in this contract?

20 A That's the way the agreement is written,
21 except for some daily allocations for any changes, they
22 give a daily rate in the agreement as I recall.

23 MR. WRIGHT: Okay. Thank you, that's all the
24 questions I have.

25 COMMISSIONER POLMANN: Staff.

1 MS. MAPP: Staff has no questions for this
2 witness.

3 COMMISSIONER POLMANN: Commissioners.

4 Good afternoon, Mr. Castle.

5 THE WITNESS: Good afternoon.

6 COMMISSIONER POLMANN: Are you familiar with
7 the Sanlando Wekiva wastewater treatment plant
8 referred to in Mr. Woodcock's Exhibit ATW-4?

9 THE WITNESS: No, I wasn't. I tried to look
10 it up online and I couldn't find much information
11 about the original manufacturer.

12 COMMISSIONER POLMANN: Okay. And Mr. Saylor
13 referred you in Mr. Woodcock's testimony to a
14 particular index, ATW-4; do you recall that? In
15 earlier questions, that was an Evoqua budget
16 proposal, and so forth.

17 THE WITNESS: Yes. You are talking for the --
18 this other plant, Sanlando plant?

19 COMMISSIONER POLMANN: Yes, the Sanlando
20 Wekiva wastewater treatment plant.

21 THE WITNESS: Yes, I went through that.

22 COMMISSIONER POLMANN: Do you have any
23 personal knowledge, familiarity with that facility?

24 THE WITNESS: I do not.

25 COMMISSIONER POLMANN: Okay.

1 THE WITNESS: I would say I did note in the
2 Evoqua proposal, they say they are going to provide
3 Evoqua parts.

4 COMMISSIONER POLMANN: Okay.

5 THE WITNESS: So it implies to me that perhaps
6 it's an Evoqua plant, but I'm not sure.

7 COMMISSIONER POLMANN: Understood.

8 So without any knowledge or information
9 regarding that facility, did you have any
10 opportunity to compare that facility plant or any
11 operating conditions to the KWRU?

12 THE WITNESS: No, I did not.

13 COMMISSIONER POLMANN: Thank you.

14 Based on your knowledge and experience working
15 in the wastewater treatment plant field, can you
16 describe for us what is a package plant in the
17 context of KWRU, or something familiar?

18 THE WITNESS: Yeah. Typically a package plant
19 is built by a manufacturing company. Frequently
20 they are steel. They fabricate the components in a
21 factory, ship them down in a field weld, install
22 the equipment and cope the system and then start it
23 up.

24 So it's a package in that it's not poured
25 concrete on site, it's brought down and then

1 fabricated and field erected.

2 COMMISSIONER POLMANN: And were those
3 techniques of procurement and construction used for
4 both parts of the KWRU wastewater treatment
5 facility? Mr. Sayler referred to the first part of
6 the first plant, and then the second with
7 fabrication and package units used for both the
8 first and second part, do you know?

9 THE WITNESS: Yes, they were.

10 COMMISSIONER POLMANN: From your experience in
11 working, again, in the wastewater treatment plant
12 and recommending to your clients certain aspects
13 regarding contracting, do your recommendations
14 typically include, within a bid package, something
15 that could be referred to as an owner's allowance?

16 THE WITNESS: That's a fairly frequent
17 occurrence. I would say it's less than 50 percent
18 of the time, but if there are certain things that
19 the owner thinks they may want done but they are
20 not sure when the contract is awarded I can put in
21 a dollar allocation based on my construction cost
22 estimates for whatever -- essentially add alternate
23 items they may want to add as the project
24 progresses.

25 COMMISSIONER POLMANN: Can you briefly tell us

1 what an owner's allowance is, just characterize
2 that for us?

3 THE WITNESS: Yes. That would be, for
4 example, if we had some pumps that had been in
5 service for 15 years and we are not sure what the
6 condition is, the owner may want to replace them,
7 we can estimate the cost of purchasing and
8 installing replacements pumps, and set aside an
9 allocation in the contract if the owner likes to
10 opt that, that would be executed as a change order
11 to the contract.

12 COMMISSIONER POLMANN: You have an answer in
13 questions, I believe I heard in response to Mr.
14 Sayler, that change orders on construction
15 projects, and so forth, in the wastewater industry,
16 change orders are fairly typical coming from a
17 contractor; is that correct?

18 THE WITNESS: It can come either from
19 something the contractor offers. It can come from
20 an unknown condition that's discovered during the
21 work, or it can come from the owner as something
22 they decided they wanted during the course of the
23 contract.

24 COMMISSIONER POLMANN: So in terms of the
25 original contract, there would be items related to

1 cost and details of performance, and so forth, but
2 specifically the cost, they will perform certain
3 work and install certain components, and so forth,
4 and they will be line item costs, but based on
5 conditions in the field and actual performance, or
6 delays, and so forth, they may come back and ask
7 for more money; is that correct?

8 THE WITNESS: That's correct. Typically, if
9 it's delays, it's something that's beyond the
10 control of the contractor; but more commonly you
11 find unknown conditions during construction that
12 need to change.

13 COMMISSIONER POLMANN: Would one item in an
14 owner's allowance simply be -- or could be a dollar
15 amount that's set aside in the event that such
16 things could happen, it's not necessarily an
17 optional component, but it would just be a certain
18 number of dollars that the owner says, there may be
19 unknown things and I am just going to include here,
20 for budgeting purposes, X number of dollars; is
21 that something that you have seen?

22 THE WITNESS: Yeah, I have seen that. It's
23 usually called a contingency that they allocate a
24 certain amount of dollars in the budget.

25 COMMISSIONER POLMANN: Is that something that

1 was included in the contract for KWRU?

2 THE WITNESS: For the rehab of the plants,
3 there was that item for a daily fee for additional
4 work, essentially accrue fee; but other than that,
5 there was nothing -- I don't believe there was a
6 dollar amount associated with that. It was just a
7 cost per day, and not actually an allocation or
8 contingency amount.

9 COMMISSIONER POLMANN: Thank you, sir.

10 Redirect?

11 MR. SMITH: Yes.

12 FURTHER EXAMINATION

13 BY MR. SMITH:

14 Q Mr. Castle, you were asked about putting this
15 project out to bid; do you recall that line of
16 questioning?

17 A Yes.

18 Q Are engineered drawings required as part in
19 order to put a project such as this out to bid?

20 A Yes. In summary, we would need to have
21 detailed drawings for shop fabrication of the components
22 to be manufactured at a factory and shipped to the site.
23 The detailed load calculations would have to be
24 performed as required by DPE (sic).

25 Once we put the drawings out, the

1 manufacturers would submit shop drawings for our review
2 and approval to make sure they matched the
3 specifications and dimensions that are required. We
4 also have details on the types of welds and the types of
5 bolts and fasteners to assemble the structure with, and
6 a set of technical specifications for materials of
7 construction for coatings, concrete, anything on the
8 project.

9 **Q Would this increase the cost -- the**
10 **engineering estimate cost of this project?**

11 A Yes, it would.

12 **Q Have you done a calculation of what this would**
13 **increase the engineering cost of this project?**

14 A I had my staff work on some when I reviewed
15 it. As I recall, the cost estimate that we put together
16 for the additional effort to produce those drawings did
17 not, though, include the load calculations that are
18 required.

19 **Q And what was that cost?**

20 A I believe it was around 170,000. I am not
21 sure.

22 **Q Would there be additional costs associated**
23 **with construction engineering at inspections if the**
24 **components were not the Evoqua components?**

25 A Yes. In my opinion, there would be a risk of

1 having components that are not precise, exact matches to
2 the originals. And since you are -- if this was a new
3 tank going in, the design would be fairly
4 straightforward; but since we are ending up with owner
5 basically replacing portions of it, and there are
6 structural elements that are going to support the loads,
7 it's a lot more complicated, and the fit and the
8 construction has to be correct or you are going to
9 change the loads, possibly change the loads on the
10 system.

11 **Q Do you have any estimate of what the**
12 **additional increase in cost in construction, engineering**
13 **and inspection could be?**

14 MR. SAYLER: Objection, a little bit beyond
15 the scope of my cross.

16 COMMISSIONER POLMANN: I agree.

17 BY MR. SMITH:

18 **Q All right. You were shown a photo of the**
19 **DAVCO -- the Evoqua site, which was ATW-3, and it**
20 **evidenced that stated DAVCO and had the TM next to it;**
21 **do you recall that in ATW-3?**

22 A Yes.

23 **Q Okay. Is DAVCO a trademark product of Evoqua?**

24 A Yes, it is.

25 **Q Are you aware of whether their plans are**

1 **proprietary information?**

2 A I have asked that question, and they say, yes,
3 yes, it is.

4 MR. SMITH: Thank you. I have no further
5 questions.

6 At this time, I would request to admit into
7 evidence Mr. Castle's Exhibits ERC-1 and ERC-2,
8 which is on the rebuttal list as --

9 MS. HELTON: 78 and 79.

10 MR. SMITH: Thank you, 78 and 79.

11 COMMISSIONER POLMANN: Okay. We will enter
12 into the record ERC-1 and ERC-2, which are on the
13 comprehensive list as part of rebuttal Exhibits No.
14 78 and 79.

15 (Whereupon, Exhibit Nos. 78 & 79 were received
16 into evidence.)

17 MR. SMITH: And we would request that
18 Mr. Castle be excused at this time.

19 COMMISSIONER POLMANN: Mr. Castle, thank you
20 for your testimony. You are excused.

21 THE WITNESS: Yes, I am. You are welcome.

22 COMMISSIONER POLMANN: Have a good evening.

23 THE WITNESS: Thank you.

24 (Witness excused.)

25 COMMISSIONER POLMANN: My list, Mr. Pabian.

1 MR. SMITH: KWRU would call Mr. Robert C.
2 Pabian.

3 Whereupon,

4 ROBERT C. PABIAN

5 was called as a witness, having been previously duly
6 sworn to speak the truth, the whole truth, and nothing
7 but the truth, was examined and testified as follows:

8 EXAMINATION

9 BY MR. SMITH:

10 Q **Good evening, Mr. Pabian.**

11 A Mr. Smith.

12 Q **Please state your name for the record, and
13 spell your last name?**

14 A Robert Pabian, P-A-B-I-A-N.

15 Q **Have you prepared prefiled testimony in this
16 matter?**

17 A Yes.

18 Q **Do you have any corrections or changes to that
19 testimony?**

20 A No.

21 Q **Did you also prefile exhibits?**

22 A Yes.

23 Q **What are those exhibits?**

24 A It's the contract.

25 Q **Okay. Can you identify the numbers for us?**

1 A You are asking me tricky questions already. I
2 don't know where those numbers would be.

3 COMMISSIONER POLMANN: Do you want to rephrase
4 your question, sir?

5 BY MR. SMITH:

6 **Q Did you prefile Exhibits RCP-1 and RCP-2?**

7 A Yes, I did.

8 **Q Thank you.**

9 MR. SMITH: At this time, I would move
10 Mr. Robert Pabian's testimony into the record as if
11 though read.

12 COMMISSIONER POLMANN: At this time, we will
13 enter into the record the prefiled rebuttal
14 testimony of Robert Pabian as though read.

15 (Whereupon, prefiled testimony was inserted.)

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

2 A. My name is Robert C. Pabian, and my address is 1315 United Street, Key West, Florida
3 33040. I am a developer, through various entities, of modular structures in the Florida Keys,
4 and the sole vendor in the lower Keys for Champion Homes. I am also one of only two
5 vendors for Jacobsen Homes and Palm Harbor Homes. I am also the President of Pabian
6 Outdoor-Southeast, Inc., which has contracted with KWRU for provision of their modular
7 office on Stock Island.

8 **Q. Have you presented direct testimony in this case?**

9 A. No, I have not.

10 **Q. Have you previously filed testimony in Utility Rate Case Proceedings before the Florida
11 Public Service Commission?**

12 A. No, I have not.

13 **Q. Are you sponsoring any exhibits?**

14 A. I am sponsoring Exhibit RCP-1, which is the Modular Office Installation Agreement between
15 KWRU and Pabian Outdoor-Southeast, Inc. I am also sponsoring Exhibit RCP-2, which is
16 documentation of a few of the modular home developments I have completed in recent years
17 in the Keys.

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

19 A. I will testify as to the reasonableness of the \$182 cost per square foot of KWRU's new office
20 building based on my experience as a modular developer in the Florida Keys and the past
21 projects in which I have been involved.

22 **Q. Please briefly state your history as a developer in the Florida Keys.**

23 A. I have developed hundreds of modular units over the past five years in the Florida Keys. A
24 sampling of some of the development I have overseen is contained within Exhibit RCP-2.

25 This document includes Southernmost Cabana, a 26 unit development in Key West, at pages

1 1 - 5; Little Torch Cottages, a 58 unit development on Little Torch Key, at pages 6 – 8; and
2 Tarpon Harbour, a 106 unit development in Marathon, at pages 9 – 10.

3 **Q. Would you describe your development experience prior to you beginning work in the**
4 **Keys?**

5 A. Since 1976, I have developed hundreds of commercial, as well as residential, modular units
6 in Georgia, South Carolina, the Florida Panhandle, Mississippi, South Alabama and the
7 Florida Keys. During that period, I also rehabilitated and renovated site-built homes in Key
8 West.

9 **Q. In your capacity as the manager of entities which develop modular structures in the**
10 **Florida Keys, are there challenges specific to the Florida Keys which drive up**
11 **development costs when compared to other markets?**

12 A. The primary reason I focus on developing modular homes in the Florida Keys is the
13 competitive price. The lower Keys are very remote, labor is expensive, and good
14 employees/contractors are hard to come by. Developing modular units alleviates, to a large
15 extent, the increased prices resulting from these factors and time delays which are often
16 experienced in the Keys. In other areas which are nearby materials sources and where labor is
17 not so expensive, the cost savings of developing modular as opposed to site built structures is
18 less pronounced. In the Keys, it is pronounced. This has driven my success over my time
19 developing in the Keys.

20 **Q. Generally speaking, how does the cost of developing a modular unit in the Florida Keys**
21 **compare to the cost of developing a site-built unit?**

22 A. Site built units are generally significantly more expensive on a cost per square foot basis.
23 This is largely due to the high cost of living in the Florida Keys driving labor costs up.
24 Modular units are typically constructed in areas with lower labor costs and shipped to the
25 Keys. This avoids the expense of having contractors on-site for an extended period of time to

1 construct the structure. Most recently, since Hurricane Irma, contractors can cherry pick the
2 projects they wish to work on and the priority of those projects. This has lengthened
3 timetables for construction and decreased the availability of labor.

4 **Q. What does a “vendor for modular homes” do?**

5 A. Modular companies typically do not sell direct to consumer. As a vendor, I work with the end
6 customer to design the unit, engineer the unit for value, and then I work with the various
7 modular companies for whom I am a vendor to price and obtain a suitable unit.

8 **Q. Are there any cost advantages, passed on to the end user, that result from you being a
9 vendor for multiple modular companies?**

10 A. There are. Because I am a vendor for multiple companies, I can bring the specifications to all
11 the companies to obtain the best price. This allows me to lower the “Not to Exceed” cost
12 which forms the basis of my contracts with third parties, and receive inventory on a more
13 timely basis.

14 **Q. What was the cost per square foot for each of the developments you cited earlier?**

15 A. The modular developments cited above had a cost per square foot of \$170, but they were
16 residential developments. Of course, fit and finish vary from project to project, and there are
17 other important factors – most importantly the size of the project – which drive the ultimate
18 construction cost per square foot. These are much larger projects. For the modular clubhouse
19 at Tarpon Harbour, in Marathon, our cost per square foot exceeded \$200. This was a single
20 “commercial” style building, but it is basically an empty shell with a bathroom.

21 **Q. In your experience, what is the cost per square foot of site built buildings in the lower
22 Keys?**

23 A. Site-built structures – in my experience in comparing pricing to modular construction – are
24 typically well over \$300 per square foot. For smaller developments (such as a single building,
25 or a cluster of homes) the cost per square foot for site built construction is over \$350. For the

1 clubhouse at Tarpon Harbour I referenced above, the cheapest bid we received from a local
2 contractor for a site-built structure was nearly \$500 per square foot.

3 **Q. In your opinion, is \$182 per square foot a reasonable price to provide and install a**
4 **finished approximately 1,577 square foot modular unit?**

5 A. Yes. One hundred eighty two dollars per foot is within the reasonable market range for
6 provision and installation of a finished singular modular unit in the lower Keys.

7 **Q. Section 2 of Exhibit RCP-1 provides that Pabian Outdoor-Southeast, Inc. is required to**
8 **“obtain the Modular Office from a reputable modular building manufacturer (such as**
9 **Jacobsen, Champion, HBW, etc.) based upon agreed upon specifications and**
10 **finishes...” and complete installation for a cost not to exceed \$250,000.00. How did you**
11 **derive the “not to exceed” price?**

12 A. By discussing the specific function of the KWRU office and KWRU’s needs with KWRU
13 President Chris Johnson, we were able to value engineer the project to eliminate unnecessary
14 features to save money. I have a good picture of installation costs from my other recent
15 projects in the Keys. Putting my estimate of modular unit cost and installation costs together,
16 I was able to provide a not to exceed price of \$250,000.00

17 **Q. Did you discuss KWRU’s needs for the unit with all of the modular construction**
18 **companies for which you are a vendor?**

19 A. I did.

20 **Q. Which vendor will be providing the new office for installation at KWRU?**

21 A. Champion Homebuilders.

22 **Q. Why did you utilize Champion Homebuilders?**

23 A. In this instance, Champion was the only company who could commit to providing the unit
24 within a reasonable timeframe. As a result of the Hurricanes last season which struck Texas,
25 Florida, and Puerto Rico, modular companies are currently experiencing incredibly high

1 demand for units. The other companies did not provide timetables which met KWRU's time
2 constraints.

3 **Q. Does this conclude your testimony?**

4 A. It does.

5

1 BY MR. SMITH:

2 Q Have you prepared a summary of your testimony?

3 A I didn't really prepare a summary, but it
4 involves the construction of an office building for
5 KWRU.

6 Q Can you summarize your testimony?

7 A We are to build a building that's going to be
8 about 1,500 square feet. There are going to be five
9 offices, a reception area. It's modular housing, and
10 it's going to be brought in two boxes, roughly 52 feet
11 by 15 feet wide each, set on concrete pilings. And this
12 is built to 180-mile-an-hour wind code impact glass,
13 180-mile-an-hour metal roof.

14 So this is a regular home. This is not to be
15 mixed up with what would you call a trailer or a mobile
16 home. This is built to all wind codes, and it is lifted
17 off of the grade, so it is a regular building, or home,
18 and not 110-mile-an-hour trailer.

19 Q Thank you.

20 MR. SMITH: We would tender Mr. Pabian for
21 cross-examination.

22 COMMISSIONER POLMANN: Thank you, Mr. Smith.
23 Public Counsel.

24 MR. SAYLER: Yes, sir.

25 EXAMINATION

1 BY MR. SAYLER:

2 Q Good evening, Mr. Pabian. How are you doing?

3 A Fine, how are you?

4 Q Good. I understand it's your first time
5 testifying before the Public Service Commission?

6 A It is.

7 Q All right. Let's see, on page one of your
8 testimony, it says you were added as a witness to
9 testify about the cost of proposed modular units in this
10 case; is that right?

11 A Correct.

12 Q And what is your educational background?

13 A Four years of college.

14 Q All right. And what was your degree in?

15 A Economics.

16 Q All right. And it says on page two of your
17 testimony, you have been involved with the development
18 since 1976; is that right?

19 A That's correct.

20 Q All right. And when did you get into modular
21 units?

22 A The first modular unit that I ever did was the
23 late 1980s, probably 1989, when they -- that was kind of
24 a new concept, modular homes. So since the late '80s.

25 Q All right. And when it says you develop

1 commercial as well as residential, were those site-built
2 or skip-built, or were those modular type units?

3 A Those were site-built.

4 Q Were those here in the Keys or elsewhere?

5 A The commercial was elsewhere.

6 Q Okay. And it states that you have
7 rehabilitated and renovated site-built homes in Key
8 West, is that right?

9 A That's correct.

10 Q Are you a licensed contractor?

11 A No.

12 Q And do you need to be a licensed contractor to
13 rehabilitate and renovate site-built homes?

14 A No.

15 Q Okay.

16 A The actual work, you have to have a licensed
17 contractor, but to buy the property and rehabilitate,
18 no.

19 Q Okay. And today I saw a sign clearly posted
20 on the freeway, it says it's a felony to operate as a
21 contractor without a license; is that right?

22 A That would be, I think, pretty accurate.

23 Q Okay. And you need to be a licensed
24 contractor to be a vendor for modular homes?

25 A No, you do not.

1 Q All right. And how did you obtain your
2 knowledge of modular homes, was that through use and
3 experience in this industry?

4 A It was a lot more expensive to go into Boston
5 College for four years.

6 Q All right. Now, on page two of your
7 testimony, you state that site-built homes are
8 significantly more expensive than modular units, is that
9 correct?

10 A That would be correct.

11 Q And that is based on your experience, is that
12 right?

13 A Yes, sir.

14 Q And that is constructing site-built homes in
15 Key West?

16 A That's correct.

17 Q All right. On page three of your testimony,
18 you state that the site-built home is typically about
19 \$300 per square foot, is that right?

20 A Roughly, depending on the construction.

21 Q Now, Mr. Smith asked you about the two
22 exhibits attached to your testimony. Did you provide an
23 exhibit that would support your assertions that the cost
24 of site-built homes are over \$300 per square foot?

25 A No, sir, I did not.

1 Q And also, you refer -- excuse me, you refer to
2 a cost of \$350 per square foot for smaller developments,
3 do you recall that?

4 A I do.

5 Q All right. And did you provide an exhibit
6 that supports that claim as well?

7 A I did not.

8 Q All right. Now, is the cost per square foot
9 you reference in your testimony, is that for residential
10 or commercial?

11 A Residential.

12 Q All right. And as a modular home developer,
13 do you enter into contracts for modular units on a
14 regular basis?

15 A I do.

16 Q Now, are all your contracts on a not-to-exceed
17 basis?

18 A Yes, there are change order parts of some of
19 our contracts when we saw retail. I do a lot of my own
20 developing on lots that I own, so that wouldn't pertain.

21 Q Comparing the contract you executed with KWRU
22 with the ones you do for other residential units, is it
23 the same type of contract, or is it different?

24 A It's the same type of contract.

25 Q Okay. So your other modular home contracts

1 have a delivery date in them?

2 A No, this had a date in it, and the others
3 don't necessarily have a date in them.

4 Q All right. Did you put that date into the
5 contract, or was that the utility?

6 A I did.

7 Q All right. And when you executed the contract
8 originally last fall, you said you could deliver by
9 March 31st of 2018?

10 A That's correct.

11 Q All right. And let's see, and at the time you
12 prefiled your testimony in this case, have you received
13 any competitive bids for the modular unit in question
14 for KWRU?

15 A I have put it out to three different
16 manufacturing companies that I do business with,
17 Jacobson, Palm Harbor, Champion, and the only company
18 that wanted to bid this particular job was Champion,
19 whom I have done a lot of business with. They are
20 located here in Florida. They are a national company,
21 and they actually had to do a separate set of drawings.

22 And based on working with Chris Johnson and
23 KWRU, we've gone back and forth on the configuration of
24 the building so it slowed things down a bit, because all
25 those plans have to be drawn by the modular company.

1 They have to be submitted by engineering to a third
2 party engineering company. They have to go back to the
3 modular company, that has to be gone over again by the
4 modular company, and that gets submitted to Tallahassee,
5 and it's filed in Tallahassee, and then it's built by
6 the modular company.

7 So it's kind of a process of getting the plans
8 finalized.

9 **Q So if there are no companies that do modular**
10 **commercial buildings?**

11 A Oh, there are a lot of modular companies that
12 do.

13 **Q But you are not a vendor for those modular**
14 **companies that do commercial buildings?**

15 A No. I mean, I could buy from any number of
16 companies, I just happen to have done enough business
17 over the years to know who's going to deliver, and what
18 kind of product I might get from them.

19 **Q Okay. So converting a residential unit to a**
20 **commercial unit is adding to the cost of the project?**

21 A No.

22 **Q Now, on page four of your testimony, lines 20**
23 **to 21, you specifically state that Champion will be the**
24 **vendor providing the new office?**

25 A That's correct.

1 **Q All right. But yet you just testified a**
2 **moment ago that you are going to put the bid out to**
3 **various vendors?**

4 A Which I did. Two of the vendors turned me
5 down, and only one vendor wanted to bid the job.

6 **Q And that was Champion?**

7 A Correct.

8 **Q And have you put the bid out to any other**
9 **vendors even though you don't have a relationship with**
10 **that many that do business here in the Keys?**

11 A No.

12 **Q No, and why was that?**

13 A Timing, reputation. The fact that to have
14 something like this designed is a little bit different
15 than just getting it out of the box plan where you can
16 pick up the phone and order something that's already
17 been designed by the company, and Champion has been very
18 amenable to working with us on special designs when
19 customers want to make changes and all. So to reach
20 out -- and there is another company that I have done
21 business with, but they tend to be very expensive, and
22 so I didn't even try to bid it with them.

23 **Q And what company was that?**

24 A I didn't say.

25 **Q I am asking you, which company was that that's**

1 very expensive you didn't want to bid it out to?

2 A Affinity.

3 Q Affinity?

4 A Uh-huh.

5 Q Okay. And do they do commercial designs or
6 just residential, like Champion?

7 A I have purchased from Affinity. They will do
8 a -- this is more residential, the design that we are
9 doing here, but I have bought a commercially designed
10 clubhouse from Affinity that they designed for me.

11 Q And this redesign you're talking about, a
12 residential unit to a commercial unit, that was all
13 interior redesign; is that correct?

14 A That's correct.

15 Q So moving a few internal walls, cutting down
16 full bathrooms to half bathrooms, something like?

17 A There is a ladies room, men's room, that type
18 of thing. Yes, sir.

19 Q But in your redesign, you are not changing any
20 of the load bearing walls that affect the structural
21 integrity, correct?

22 A No, because all of that has to be engineered
23 to 180-miles-an-hour.

24 Q And you agree these designs are fairly
25 customizable, right?

1 A Yes, sir.

2 **Q And they all have to go to Tallahassee for**
3 **approval even if you do interior modifications that**
4 **don't affect the exterior specifications?**

5 A I can't truly answer that question, but I
6 would say, no. If you are changing a few interior walls
7 that are not load bearing, and you want to add a closet,
8 or whatever, that is not going to affect the integrity
9 of the building.

10 **Q Right. And this is a single story structure,**
11 **correct?**

12 A That is correct.

13 **Q Why a single story as opposed to two-story, do**
14 **you know?**

15 A Well, there is a height limitation on how high
16 you can go. We are going to have to -- and you say
17 single story, we are going to have to build this at
18 least eight feet above the ground on 16-inch concrete
19 pilings, and so it will set and be strapped to those.
20 So it will have storage and parking under the building
21 and that will keep it out of the flood zone.

22 **Q Okay.**

23 A So by the time you do that, you have the pitch
24 of the roof, you have nine foot walls, and you have
25 pushed yourself up to adding a second story getting

1 closer to your height restriction.

2 Q Is that throughout the Keys or just the
3 location on Stock Island that there is a height
4 restriction?

5 A I can't answer for all of the Keys, but it is
6 in where I have done business between Marathon down to
7 Key West.

8 Q Okay. And I looked online at various modular
9 construction homes and saw the signs that were two
10 stories for the Keys, that's why I was asking you that
11 question.

12 A Yes, and we have built two story homes.

13 Q Okay. But you don't know if KW is restricted
14 in Stock Island to a single story?

15 A I would say that you could go 35 feet or
16 37 feet; but again, with their configuration the way
17 they wanted their office set up with a lab, and a
18 kitchen area, and a conference room, and offices, and
19 reception area, I am -- personally, two stories don't
20 make any sense to me.

21 If you lived in a home, you wanted a two-story
22 home and you wanted to be away from your kids and you
23 wanted to be upstairs and downstairs, I can see that;
24 but as an office building, I don't see where that makes
25 sense, but that's just me.

1 Q You sound like a father.

2 A Yes. That's why I am working so hard right
3 now.

4 Q Okay. Are you familiar with the floor plan
5 that's in Mr. Johnson's rebuttal testimony?

6 A I probably am. I am not sure what's in his
7 testimony, but we had a black line drawing done with the
8 floor plan.

9 Q Okay. And to your knowledge, is that the
10 latest version?

11 A Yes, sir.

12 Q Okay. And are you aware that on that drawing,
13 it says Champion is located in Michigan?

14 A Their corporate offices are probably out of
15 Michigan. They do business in Europe --

16 Q Okay.

17 A -- but their plant is in Lake City, Florida.

18 Q Would you turn to RCP-2 of your testimony,
19 specifically, how about page five of 10? Are you there?

20 A Okay, I am not -- I am --

21 Q Okay. In the top right-hand corner of every
22 page, it says Rebuttal Testimony of Robert C. Pabian,
23 docket number something, and underneath, it says Robert
24 C. Pabian, sampling of past projects.

25 A I have got RCP-1 and that's where this ends,

1 but I do have --

2 **Q I can provide the witness a copy of the paper.**

3 A I could probably find it on my iPad faster
4 than you can find it. In fact, I do have it as a PDF
5 file, so...

6 COMMISSIONER POLMANN: Could you restate, Mr.
7 Sayler, where you are looking?

8 MR. SAYLER: Yes. In RCP-2, page five of 10.

9 COMMISSIONER POLMANN: Thank you.

10 BY MR. SAYLER:

11 **Q Are you there, Mr. Pabian?**

12 A This is not going to be clear enough for me --
13 what -- just I have got floor plans.

14 COMMISSIONER POLMANN: Why don't you ask your
15 question, Mr. Sayler, and see what we can do with
16 it?

17 THE WITNESS: Okay.

18 BY MR. SAYLER:

19 **Q All right. Mr. Pabian, are these designs**
20 **typical of various modular residential designs?**

21 A Correct.

22 **Q All right. And the one for KW is a much**
23 **stripped down version of that, is that correct?**

24 A Well, this was a project I built in downtown
25 Key West, and it's high-end homes that sell for \$750,000

1 to \$950,000 each.

2 Q Okay. So that was my question. You were
3 saying that -- so this is a residential drawing for a
4 high-end home, correct?

5 A Yes, sir.

6 Q All right. And would it be fair to say that
7 high-end homes have high-end finish?

8 A That would be fair to say.

9 Q And that would be included in the price per
10 square foot?

11 A It would be.

12 Q Okay. And that finish could be cabinets,
13 countertops, tile walkways, fancy showers, fixtures, et
14 cetera, et cetera?

15 A Yes, sir.

16 Q And that's all included in the price per
17 square foot?

18 A That's right.

19 Q All right. And KW is, I am assuming, going to
20 have more of an office, slash, utilitarian finish and
21 trim?

22 A It would.

23 Q Okay. When it comes to a project like this,
24 how are you paid? Is your fee included in your not to
25 exceed price?

1 A That's correct.

2 Q And at this time, you don't believe it will
3 exceed the amount that's stated in the contract,
4 correct?

5 A Yes, sir.

6 Q All right. Let's see, would you turn to the
7 contract that you have executed with Key West?

8 A Okay.

9 Q That would be RCP-1 modular office
10 installation agreement, do you see that?

11 A Yes, sir.

12 Q Okay. I see a lot of blue line changes to
13 that contract. When did you make those changes to this
14 contract?

15 A I don't remember the exact date, but it was
16 shortly after we did the contract, we were going to set
17 up -- we've got a number of different entities, even
18 though they all operate out of our office, that has to
19 do with financing investor money, et cetera. And right
20 after the hurricane, we had a company we were going to
21 set up called PP Keys, and we did not set up that
22 company, so we just changed it -- changed the contract
23 back to a company that I have had for 25 years, Pabian
24 Outdoor Southeast, and so a lot of the blue lines
25 scratched through the name of that company that was

1 initially put into the original contract.

2 Q All right. But when did you make these lined
3 through changes?

4 A Probably within two to three weeks of signing
5 the contract last year.

6 Q Two to three weeks, so early November, would
7 that be accurate?

8 A I would say that would be accurate. I don't
9 remember the exact date, but it was when we decided, and
10 we started getting our feet on the ground, we had
11 internet again and...

12 Q Okay. So this contract, which was drafted PP
13 Keys 2016, LLC, do you know when that was initially
14 drafted? Was that after Hurricane Irma?

15 A It was after -- it was after Irma.

16 Q Okay. All right. And I notice it had the
17 person initially executing was Christine Pabian, is that
18 your --

19 A That's my wife.

20 Q Okay. All right.

21 MR. SAYLER: No further questions. Thank you.

22 COMMISSIONER POLMANN: Thank you, Mr. Saylor.

23 Monroe County.

24 MR. WRIGHT: Thank you, Commissioner.

25 EXAMINATION

1 BY MR. WRIGHT:

2 Q Good late afternoon to you, Mr. Pabian.

3 A Good afternoon, sir.

4 Q I have a few questions for you.

5 Mr. Saylor just asked you about the date of
6 the agreement. If you would look at the first page of
7 the agreement, your Exhibit RCP-1, the date in the
8 second line is October 19, 2017, correct?

9 A Yes, sir.

10 Q As between KWRU and Pabian Outdoor Southeast,
11 is the effective date of the agreement October 19, 2017?

12 A Well, I am not an attorney, but I would say
13 that I would hold to that date, when we inserted Pabian
14 Outdoor.

15 Q That's a good answer for these purposes.
16 Thank you.

17 What is the corporate legal structure or
18 status of Pabian Outdoor Southeast, is it a corporation
19 or a LLC?

20 A It's a C-Corp.

21 Q C-Corp. Thank you.

22 Covering a lot briefly, this contract provides
23 that the modular office would be installed by March 31,
24 2018, correct?

25 A Correct.

1 Q And it's correct you have not started
2 construction?

3 A That is correct also.

4 Q Thank you.

5 You and KWRU did not amend the completion date
6 provision, did you?

7 A No, sir, we did not.

8 Q Have you or Pabian OS given KWRU any written
9 promise of the completion date other than March 31,
10 2018?

11 A We have not.

12 Q Has KWRU provided notice to Pabian OS that it
13 is in default under the contract for failure to complete
14 by the completion date?

15 A No, sir, they have not.

16 Q If you know, is KWRU pursuing any other
17 remedies against Pabian OS?

18 A No, sir, not that I am aware of.

19 Q I would like to ask you to look, please, at
20 Section 3 of your agreement. I think it's on the second
21 page. It's the numbered paragraph three. I called it
22 section. If you would please just read that into the
23 record.

24 A "Cap on cost. The parties agree and knowledge
25 that all costs (hard and soft) involved in the

1 manufacture, transportation, installation and
2 construction of the modular office, and the most that
3 KWRU will be responsible for is \$250,000."

4 **Q Is it your testimony today that all costs,**
5 **hard and soft as set forth in that section for the**
6 **modular office, and the most KWRU will be responsible**
7 **for is \$250,000?**

8 A Yes, sir.

9 **Q And that's for the 1,577 square foot building?**

10 A That's correct.

11 MR. WRIGHT: Thank you.

12 That's all the cross I have for Mr. Pabian.

13 COMMISSIONER POLMANN: Thank you.

14 Staff.

15 MS. CRAWFORD: Thank you. Yes, staff does
16 have a few questions, and if I could have staff
17 pass out, we've got one exhibit we would like to
18 have identified.

19 And what staff is in the process of passing
20 out is a response by KWRU. It's a response to
21 staff's fourth set of interrogatories, No. 89, and
22 if we could have that marked as an exhibit please.

23 COMMISSIONER POLMANN: I am on Exhibit 131.

24 And this is KWRU's responses to staff's fourth
25 interrogatories?

1 MS. CRAWFORD: No. 89, yes, sir.

2 (Whereupon, Exhibit No. 131 was marked for
3 identification.)

4 EXAMINATION

5 BY MS. CRAWFORD:

6 Q Mr. Pabian, just for clarity, this is a
7 response that I believe was actually sponsored by
8 Mr. Johnson in this proceeding. Have you seen this
9 discovery response before? Are you at all familiar with
10 it?

11 A I have not seen it until just now.

12 Q Okay.

13 MR. WRIGHT: Commissioner, I apologize, but I
14 am just going to pose my continuing objection to
15 this, because I believe it's one of the ones that
16 was submitted late that we discussed yesterday,
17 just for the record, so there is no argument of
18 waiver. Thank you.

19 COMMISSIONER POLMANN: Noted.

20 BY MS. CRAWFORD:

21 Q Just to summarize, the question has to do with
22 a statement by the utility stating that the -- this is a
23 quote in the question: "Utilization of PP Keys 2016,
24 LLC, provided the best chance providing a suitable unit
25 at a low price in the shortest period of time," end

1 quote.

2 The question solicited by staff asked for KWRU
3 to please explain how it concluded PP Keys 2016, LLC,
4 could provide a unit at a, quote, unquote, "low price."
5 Could you just read, just so we have it for the record,
6 what the response is there by Mr. Johnson?

7 A "There are two primary modular vendors in the
8 Lower Florida Keys. On Stock Island, particularly Bob
9 Pabian has sold and built more units than any other
10 modular vendor. Mr. Pabian acts as vendor for three
11 primary modular companies that build to the building
12 code for the Lower Florida Keys, including coastal
13 construction and wind loading, Mr. Pabian has the
14 ability to shop around for the best pricing for a
15 suitable unit."

16 Q Okay. And in that question where they refer
17 to PP Keys 2016, LLC, as you have already explained, the
18 successor company, or the retitled company, that's
19 actually Pabian Outdoor Southeast, correct?

20 A Yes, ma'am.

21 Q Okay. Let me ask you a couple of questions
22 about that response, and I am not asking you to try and
23 step into Mr. Johnson's head. I just want your response
24 on a couple of questions I am going to ask based on what
25 he's provided here.

1 A Okay.

2 Q So in his response, he mentions that there are
3 two primary modular vendors in the Lower Florida Keys,
4 you are one; who is the other, please? If you know.

5 A That are doing this right now, possibly Don
6 Miller.

7 Q There is a statement on Stock Island, you have
8 sold and built more units than any other modular vendor.
9 Do you concur with that statement?

10 A Yes.

11 Q What is the basis for your concurring with
12 that statement? In other words, on what basis would you
13 say you have sold and built more units than any other
14 modular vendor for Stock Island in particular?

15 A Well, I wouldn't say Stock Island in
16 particular. They said Stock Island, but for the Florida
17 Keys, from Marathon down. We generally build over 100
18 houses a year, and feedback from my suppliers tells me
19 that nobody buys that kind of volume.

20 Q But you haven't conducted any particular
21 studies --

22 A No.

23 Q -- of what other vendors?

24 A No. That's none of my business.

25 Q Okay. Fair enough.

1 There is also the statement that Mr. Pabian
2 acts as a vendor for the three primary modular
3 companies, so on and so forth. Are those the companies
4 you mentioned earlier, when questioned by Mr. Sayler,
5 Jacobson, Palm Harbor and Champion?

6 A Yes, ma'am.

7 Q And Mr. Johnson also makes a statement,
8 Mr. Pabian has the ability to, quote, "shop around," end
9 quote, for the best pricing for a suitable unit. Again,
10 without trying to put yourself in Mr. Johnson's head,
11 would you agree with that statement?

12 A I would agree with that.

13 Q And what is the basis for that statement?
14 What does that mean to you that you have the ability to
15 shop around?

16 A The volume of business that we do with the
17 various vendors gives us the ability to make phone calls
18 and put different homes out for bid. Things have
19 changed a bit in the marketplace in terms of even
20 getting inventory now, it's very -- because of what
21 happened with Irma in the state of Florida, it's slowed
22 things down, not a little, but a lot. And so getting --
23 we are allocated inventory to how many homes we can get
24 per month through different manufacturers. And I have
25 one -- Jacobson, in particular, won't even sell me this

1 type of retail structure now.

2 So they are filling a different need with
3 trailers. And they sell so many modulars on my own
4 lots, so it's become a new world since Irma in the way
5 that the manufacturers are able to deliver these homes
6 to us.

7 **Q Now, earlier you had mentioned Don Miller as a**
8 **possible other vendor?**

9 A He is. He primarily buys from Jacobson, and
10 Jacobson wouldn't sell him this home, but he could
11 potentially want to bid. I don't know if he would or
12 not.

13 **Q In your opinion, would he have the same**
14 **ability to, quote, shop around the way that you can?**

15 A Probably could.

16 **Q But note the opinion that you have not**
17 **conducted any studies or anything?**

18 A Oh, no.

19 **Q Okay.**

20 A I know Don, you know.

21 **Q Thank you very much. I don't have any other**
22 **questions.**

23 A Okay. Thank you.

24 COMMISSIONER POLMANN: Commissioners.

25 COMMISSIONER CLARK: No questions.

1 COMMISSIONER FAY: One question.

2 COMMISSIONER POLMANN: Commissioner Fay.

3 COMMISSIONER FAY: Thank you, Mr. Chairman.

4 Mr. Pabian, I will provide a little context to
5 my question. I fairly recently bought a house. We
6 remodeled it. We hired a contractor, and there
7 were some cliches that came into play, and we were
8 over-budget and late building our house, and I know
9 you are probably not surprised about that. But I
10 look at sort of our role as the Commission what's
11 prudent and what makes sense to be passed on to the
12 ratepayers, and this office has had a lot of
13 discussion, and the agreement we have before us
14 states a March 31st completion state date.

15 I can tell you, as I am going forward with our
16 next move on our house, the agreement will say if
17 something is not completed by a certain date there
18 is penalties for that date that can be offset for
19 that timeline.

20 Can you -- I am not asking you to speculate,
21 but can you speak to the agreement that's in front
22 of us that has a completion date that has already
23 passed?

24 THE WITNESS: Right. There is no blame put on
25 any one individual. There has been a lot of going

1 back and forth with Chris Johnson and the
2 particular type of design that they wanted; sending
3 that back to the modular company to have that done
4 through their engineering slowed the process.
5 Their engineering basically shut down for a while
6 after the hurricane. There are a lot of factors
7 that made this a longer process than when I signed
8 this. And I am used to getting turnaround in 60
9 days on having a set of plans drawn and a house
10 fabricated, and all that's out the window.

11 So, you know, there are things that, in order
12 to get this right, and we all concur that KWRU's
13 getting what they paid for, or what they want as an
14 office that's going to be there for some time that
15 we do it right the first time. But the back and
16 forth with the modular company and the engineering
17 company has taken more time than would be ordinary.

18 You know, to step in and say that to be at the
19 mercy of the modular company and me say, yes, they
20 will have it on this date is nearly impossible.
21 They can't even tell me. And I could get them on
22 the phone right now, and they would tell you that.

23 But I spoke with them this morning knowing I
24 would be here this afternoon. And they indicated
25 that probably they will have the plans out any time

1 that they could fabricate the house within 60 days,
2 which means it's now gone from spring to a fall
3 finished project. So as a lot of our things are
4 down here right now, and projects that we started,
5 we are four, five, six months behind where we
6 thought we would be in normal times.

7 COMMISSIONER FAY: So based on your testimony,
8 we don't know if this office will be provided by
9 the end of the year.

10 THE WITNESS: I feel pretty certain from
11 speaking with the modular company that it will be
12 before the end of the year.

13 COMMISSIONER FAY: That's all I have,
14 Chairman. Thank you.

15 COMMISSIONER POLMANN: Thank you, Commissioner
16 Fay.

17 Mr. Pabian, to follow up on Commissioner
18 Fay's, you indicated you have some feeling with
19 reasonable certainty by the end of the year, but
20 you don't have any assurance from the vendor, there
21 is no --

22 THE WITNESS: Well, I would never swear under
23 oath that they would have it here, but from
24 speaking with them, and what we've been going
25 through in delivery times, and seeing the way that

1 they are stepping up their production, he assured
2 me that I would have it --

3 COMMISSIONER POLMANN: I understand.

4 THE WITNESS: -- probably within 60 days.

5 COMMISSIONER POLMANN: You have a contract
6 with the vendor?

7 THE WITNESS: I do.

8 COMMISSIONER POLMANN: Are there terms in that
9 contract regarding delay?

10 THE WITNESS: No, sir, there is not.

11 COMMISSIONER POLMANN: Regarding the contract
12 that's included in your Exhibit RCP-1, you were
13 asked questions about the markup changes that were
14 included there, the handwritten changes and
15 initialed, and the effective date in October 2017,
16 you were asked on the date of the changes. Were
17 you advised by legal counsel on the legality of
18 amending the contract without indicating a date to
19 the amendments?

20 THE WITNESS: No, sir.

21 COMMISSIONER POLMANN: Are you familiar with
22 the contract motion enforcement assured?

23 THE WITNESS: I am not.

24 COMMISSIONER POLMANN: You had answered a
25 question a few moments ago, and I think this was in

1 the context of the delay of the project that there
2 were a lot factors involved or related to the
3 delay. Do you recall that discussion?

4 THE WITNESS: Yes, sir.

5 COMMISSIONER POLMANN: Other than the modular
6 unit delivery, what -- can you describe to us other
7 factors that contribute to the delay?

8 THE WITNESS: Engineering, the labor force
9 available or unavailable, not just in the Florida
10 Keys, but all over the state of Florida, including
11 at the modular companies. Design, we kind of had
12 to start from scratch with this building down here
13 on the interior, and to make sure that once those
14 designs were accomplished, that the -- that all the
15 interior walls, met the 180-mile-an-hour wind code,
16 load bearing and wind shear, and those types of
17 things, so it's taken a little bit longer than your
18 normal --

19 COMMISSIONER POLMANN: But those items that
20 you just described, were they included in your
21 original project schedule? And if so, which of
22 those have required additional time contributing to
23 the delay?

24 THE WITNESS: Particularly engineering and
25 construction, but engineering has hurt us the

1 worst. And we had no idea how backed up the
2 modular companies would be after this hurricane
3 with their engineering departments to be able to
4 take something that you can usually send -- on the
5 back of a bar napkin and say, we want this drawn
6 out, and give us some black lines --

7 COMMISSIONER POLMANN: Sure.

8 THE WITNESS: -- and instead of taking --

9 COMMISSIONER POLMANN: So the engineering is
10 within the vendor's?

11 THE WITNESS: That's correct, and that has
12 really slowed us down.

13 COMMISSIONER POLMANN: Are the modular
14 buildings, and particularly the type of building
15 here that's similar to a modular home provided by
16 the vendors are placed in the service area of this
17 utility, are those essentially similar or are they
18 distinctly different from units that are placed
19 elsewhere?

20 THE WITNESS: They are similar.

21 COMMISSIONER POLMANN: You had mentioned
22 180-mile-an-hour winds, is that an extraordinary
23 parameter for the modular buildings in the Keys?

24 THE WITNESS: I don't know any place in
25 Florida that is higher than that. We are probably

1 number one in terms of demand for building and wind
2 code, but they all have to be built to
3 180-mile-an-hour and out of flood, a new home.

4 COMMISSIONER POLMANN: Do you know if that
5 180-mile-an-hour requirement applies only in Monroe
6 County?

7 THE WITNESS: I don't -- I can't really fully
8 answer that, but I think it goes up into Dade.

9 COMMISSIONER POLMANN: Okay. For comparison
10 purposes, if one were looking at cost per unit per
11 square foot, for example, would you compare modular
12 building costs for a building in Key West to
13 building costs elsewhere in Florida because of the
14 building requirements, structural requirements and
15 things like that?

16 THE WITNESS: It's more. If you want to build
17 a house in Orlando and you get it quoted, it's
18 going to cost less.

19 COMMISSIONER POLMANN: For the modular?

20 THE WITNESS: The modular itself.

21 COMMISSIONER POLMANN: What about
22 construction?

23 THE WITNESS: And also probably for setting
24 the house and a lot of other factors.

25 COMMISSIONER POLMANN: Well, I am talking

1 about just the structure itself, sir.

2 THE WITNESS: The structure itself is probably
3 more money to have it down here.

4 COMMISSIONER POLMANN: On what basis do you
5 make that statement?

6 THE WITNESS: Well, you have to have
7 180-mile-an-hour impact glass, which is extremely
8 expensive. So you have to have it, or you have to
9 put up storm shutters. We do all impact glass so
10 you don't have to shutter the home.

11 The strapping and the shear in the home is at
12 a higher level than if you built, say, to
13 150-miles-an-hour. The house is beefed up to meet
14 those kinds of wind loads, so there is more in the
15 structure, not only labor-wise, but material-wise.

16 COMMISSIONER POLMANN: So is it fair to sum
17 that up to say that the cost per unit measure for a
18 modular home will depend -- one factor it will
19 depend on is the structural requirements and the
20 strapping, the tie-down, the glass, and so forth,
21 which are, in large part, building code
22 requirements, and then wind resistant requirements
23 that may be locally required but will not
24 necessarily be required in a different part of the
25 state?

1 THE WITNESS: That would be correct.

2 COMMISSIONER POLMANN: Thank you.

3 THE WITNESS: Yes, sir.

4 COMMISSIONER POLMANN: In terms of site
5 development in the Key West area, in the service
6 area for KWRU, in general, what are the
7 requirements for site development that will be
8 components of the cost for this building project?

9 THE WITNESS: Well, it's -- there is not --

10 COMMISSIONER POLMANN: Big picture.

11 THE WITNESS: In terms of the site development
12 on our end, it depends on what they want to add in
13 terms of landscape, or anything else they want to
14 do, but it's simply going in and auguring the holes
15 for the columns for the house. We are putting 18-
16 and 16-inch columns around this home that it will
17 ultimately set on and be strapped in to, and so
18 that will be our site development. Now, there is
19 going to be some demo --

20 COMMISSIONER POLMANN: Sure.

21 THE WITNESS: -- of the old building.

22 COMMISSIONER POLMANN: And, again, a similar
23 question; from your experience, would those site
24 development costs perhaps be distinctly different
25 here because you are in the Keys, in particular,

1 compared to other places in Florida?

2 THE WITNESS: I can't really answer that, but
3 I know what it is here and how I would have to
4 design, you know, depending on the flood zone you
5 are in, et cetera. It's fairly stout.

6 COMMISSIONER POLMANN: Is it fair to say that
7 any site development cost would be site specific?

8 THE WITNESS: That's correct.

9 COMMISSIONER POLMANN: Okay.

10 THE WITNESS: And it's engineered. It has to
11 be built that way.

12 COMMISSIONER POLMANN: That's all I have.

13 MR. SMITH: I have no redirect. Thank you.

14 COMMISSIONER POLMANN: Exhibits?

15 MR. SMITH: I will move into the record
16 Exhibits RCP-1 and RCP-2, 80 and 81 on the exhibit
17 list.

18 COMMISSIONER POLMANN: Okay. We have RCP-1
19 and RCP-2 and there are no corrections on them, is
20 that correct?

21 MR. SMITH: Correct.

22 COMMISSIONER POLMANN: All right. Those are
23 previously identified in the comprehensive exhibit
24 list as No. 80 and No. 81, do I have that right?

25 MS. HELTON: Yes.

1 MS. CRAWFORD: Yes.

2 COMMISSIONER POLMANN: Yes. Okay. We will
3 move those into the record at this time.

4 (Whereupon, Exhibit Nos. 80-81 were received
5 into evidence.)

6 COMMISSIONER POLMANN: If we have nothing
7 further.

8 MS. CRAWFORD: Actually, staff would also move
9 in Exhibit 131, please.

10 COMMISSIONER POLMANN: I'm sorry.

11 MS. CRAWFORD: That's all right.

12 COMMISSIONER POLMANN: So --

13 MS. CRAWFORD: Noting the continued objection,
14 of course.

15 COMMISSIONER POLMANN: We have Exhibit 131
16 brought forth by staff that was identified KWRU's
17 response to staff's Fourth Interrogatory No. 89,
18 and we will enter that into the record unless we
19 have an objection. Okay, so hearing none.

20 MR. WRIGHT: Staff noted my objection. I do
21 object, but that's noted on the record.

22 COMMISSIONER POLMANN: Yes, we did note that.
23 (Whereupon, Exhibit No. 131 was received into
24 evidence.)

25 MR. SMITH: And we would request that

1 Mr. Pabian be excused at this time.

2 COMMISSIONER POLMANN: You are excused, sir.

3 Thank you, sir. Thank you for your testimony.

4 (Discussion off the record.)

5 COMMISSIONER POLMANN: What he said was off
6 the record, we are not off the record.

7 (Transcript continues in sequence in Volume
8 5.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DEBRA KRICK, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 24th day of May, 2018.



DEBRA R. KRICK
NOTARY PUBLIC
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