

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

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In the Matter of:

DOCKET NO. 20170086-SU

INVESTIGATION INTO THE
BILLING PRACTICES OF K W
RESORT UTILITIES CORP. IN
MONROE COUNTY.

_____ /

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 2

COMMISSIONERS
PARTICIPATING: CHAIRMAN ART GRAHAM
COMMISSIONER JULIE I. BROWN
COMMISSIONER DONALD J. POLMANN
COMMISSIONER GARY F. CLARK
COMMISSIONER ANDREW GILES FAY

DATE: Tuesday, March 5, 2019

PLACE: Betty Easley Conference Center
Room 148
4075 Esplanade Way
Tallahassee, Florida

REPORTED BY: DANA W. REEVES
Court Reporter and
Notary Public in and for
the State of Florida at Large

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1 P R O C E E D I N G S

2 CHAIRMAN GRAHAM: Okay. So we've got to
3 circle back around to Item No. 2.

4 MR. SCHRADER: Good morning, Commissioners.
5 Item 2 involves several motions regarding a project
6 by OPC in the cross-protest by KW Resort Utilities
7 to a PAA portion of an order issued last August
8 regarding unauthorized billing practices. The
9 order had two parts, a show-cause order levying a
10 fine to the resorts and a PAA order that found an
11 audit period utilized by staff was reasonable,
12 established the appropriate time period for refunds
13 and established refund amounts to customers.

14 The issues of this recommendation are limited
15 to the protests of the PAA order. The show-cause
16 portion of this docket will be taken up at a later
17 date.

18 Issue one involves whether oral argument
19 should be granted with these motion. Staff
20 believes that oral argument may be helpful to the
21 Commission understanding the entirety of series
22 events and legal issues in this case and recommends
23 that the Commission allow oral arguments on all
24 motions.

25 Issue two involves a motion to dismiss and a

1 motion to strike KW Resorts. Staff recommends that
2 these motions be denied.

3 Issue 3 involves competing motions for summary
4 final order by OPC and KWRU. Staff recommends that
5 these also be denied.

6 Staff is here to answer questions and the
7 parties are present.

8 CHAIRMAN GRAHAM: Thank you, staff.

9 Commissioners, any questions of staff?

10 (No comments made.)

11 CHAIRMAN GRAHAM: Okay. First we have to deal
12 with Issue No. 1, if we're going to grant oral
13 arguments.

14 Commissioner Brown.

15 COMMISSIONER BROWN: Mr. Chairman, I think
16 oral argument may be helpful. So, with that, I
17 would move the staff recommendation on issue one.

18 COMMISSIONER CLARK: Second.

19 CHAIRMAN GRAHAM: It's been moved and
20 seconded. All in favor say, aye.

21 (Chorus of ayes.)

22 CHAIRMAN GRAHAM: And we will grant oral
23 arguments.

24 Key West, you guys were the -- it's your
25 motion, so I'll let you go first.

1 MR. FRIEDMAN: I mean, I don't mind going
2 first, but they did file the first motion for
3 summary order, but I'll be glad to go.

4 Two of the issues -- I'm sorry. Marty --

5 CHAIRMAN GRAHAM: If you've got any time left
6 over at the end, I'll let you come back into --

7 MR. FRIEDMAN: I will speak quickly. Thank
8 you. It's Marty Friedman of Dean Mead on behalf of
9 KW Resort Utility. Two of the issues raised by the
10 Public Council in its protest are without doubt
11 susceptible to summary disposition. There are no
12 facts in dispute and there's no argument with
13 regard to KRW's position, and that's in relation to
14 the two refunds; the refunds that were ordered for
15 Safe Harbor and the refunds that were ordered for
16 Sunset Marina.

17 Each of those disputes were previously
18 resolved by negotiation and settlement agreements
19 between those customers and the utility and
20 involved a number of issues that were in dispute
21 between the two parties. The public council in its
22 original petition of the PAA action argued that the
23 settlement agreements hadn't been submitted to the
24 Commission, so they don't know anything about them
25 and they should be ignored. Interestingly, the

1 motion for summary disposition that they filed
2 ignores those settlement agreements entirely.

3 Each of those settlement agreements includes a
4 waiver of any refund for prior wastewater service.
5 Staff somehow believes that there may be some
6 inferences drawn from the settlement agreement that
7 would not make this issue susceptible to a summary
8 disposition, and I think staff is looking at it
9 myopically and also not looking at it from the
10 correct legal standard.

11 The settlement agreements both contains
12 substantially the same language, Safe Harbor --
13 this one is Safe Harbor -- specifically and
14 expressly waives any right to a refund of amounts
15 paid to KWRU for prior wastewater service and shall
16 advise the Florida Public Service Commission
17 accordingly.

18 That's pretty clear and unambiguous. The
19 intent of the parties is clear. There's no --
20 nothing susceptible to inferences. The -- you
21 don't have Safe Harbor up here or you don't have
22 Sunset Marina up here making a claim that there's
23 something wrong with the settlement agreement.
24 It's clear, unambiguous, and it's not susceptible
25 to some third party coming in, saying, oh, no,

1 that's not what the two parties meant. They meant
2 something else. That's not where we are.

3 These two settlement agreements are clear and
4 unambiguous and not susceptible to any third-party
5 comment, or not susceptible to what we call parole
6 evidence. And, as a result, these agreements
7 expressly waive any right to any refund and I don't
8 think Public Council has the authority to tell a
9 customer that they have to do so.

10 Keep in mind that neither Safe Harbor nor
11 Sunset Marina has ever requested a refund, nor have
12 they authorized Office of Public Council to request
13 one on their behalf. In fact, it's my
14 understanding OPC had contacted these customers and
15 they did not want to participate. They had
16 negotiated a deal and were honorable business
17 people and were going to stand by that deal.

18 And, as such, I think that it's clear that
19 certainly as to these two customers there's no
20 disputed issue of fact and material fact and
21 summary disposition should be granted.

22 Other than these two specific customers,
23 Public Council believes that the Commission's audit
24 that they ordered should have gone back past 2013.
25 This is based on OPC's misunderstanding of the

1 nature of this proceeding, specifically the
2 Commission's not investigating any customer
3 complaints or issues of improper overcharging by
4 specific customers, but was determining through its
5 statutory authority if the utility was imposing and
6 collecting those rates and charges approved by the
7 Commission for the particular class of service
8 involved, and if the utility had charged, quote,
9 "customers in a manner inconsistent with its
10 Commission-approved tariffs," end quote.

11 Having arisen -- this proceeding having arisen
12 out of a billing audit, the commission's
13 determination to do a billing audit and, as such,
14 the Commission has the authority to set the
15 parameters for that billing audit. This isn't
16 based upon customers coming in and filing
17 complaints. OPC's position that the time frame for
18 the audit should be expanded was previously
19 considered by the Commission and rejected. It is
20 within the Commission's discretion to set that time
21 period. There is no rule that requires that the
22 Commission in conducting an audit do so in the
23 manner in which OPC is suggesting that it do.

24 OPC's sole reliance is on Rule 2530.350, which
25 has absolutely nothing to do with the Commission

1 exercising its audit -- exercising its authority to
2 establish an audit, including the scope of the
3 audit, the time of the audit, and the objectives of
4 the audit. And that's what it really comes down
5 to.

6 This was a proceeding for the -- that the
7 Commission had ordered arising out of a prior rate
8 case to do an audit. This isn't a customer
9 complaint asking for refunds. And, as such, this
10 Commission has the authority to determine the
11 breadth of that audit and that's got nothing to do
12 with the rule that's relied upon by Public Council.
13 Thank you.

14 CHAIRMAN GRAHAM: Thank you. Ms. Morse, he
15 took six minutes, so you have six minutes.

16 MS. MORSE: Good morning. First I'd like
17 to -- I have prepared arguments, but I'd like to
18 address the issue of the settlements and the
19 purported waivers. These settlements are
20 essentially rate-setting mechanisms, and it's been
21 the Commission's jurisdiction and authority to set
22 rates, not for an individual party to do so and not
23 bring it before the Commission for approval. In
24 any other rate-setting proceeding, where there's a
25 settlement, those are properly brought before the

1 Commission, you have the benefit of the neutral
2 staff's technical analysis and in -- the Commission
3 can make the decision whether the settlement is
4 full and fair, whether the parties fully understood
5 what they were signing, what was going on and all
6 the circumstances and the rules that should apply.

7 But back to the -- all of the motions, we see
8 that the staff's recommendation is that OPC's
9 motion for partial summary final order be denied
10 and staff's recommendation regarding denial of KW's
11 motion. And we recognize the final recommendation
12 that if all the motions are at issue are denied,
13 then the docket should remain open to address the
14 parties' respective positions or respective
15 requests for a hearing on a PA order.

16 In its motion for partial summary final order,
17 OPC requested the Commission acknowledge that Rule
18 25-30.350 requires that all overcharges to
19 customers must be refunded back to customers. KW's
20 argued that that rule does not apply to the case
21 and that Rule 25-30.360 alone should govern. OPC
22 asserts that the two rules were meant to be read in
23 harmony so that section, the -- the 30.350 is used
24 to determine the amount of the overcharge to be
25 refunded while 360 is used to determine the body of

1 customers eligible for refunds and to dictate
2 refund procedures, such as the date by which
3 refunds should be completed, the calculation of
4 interest, et cetera, other ministerial tasks.

5 KW misconstrued 25-30.360, specifically they
6 erred in reading subsection three. The reference
7 to customers, quote, "customers of record as of a
8 date specified by the Commission," refers to the
9 process for determining the identities of the
10 customers eligible to receive refunds. This
11 language is designed to prevent new customers who
12 have not been overbilled from being swept into the
13 refund process. So a reference to people who are
14 not on the utilities roles as, quote, "customers of
15 record during overbilling."

16 Contrary to KW's claims subsection three does
17 not grant any discretion to limit the date range of
18 the confirmed overbilling activity and does not
19 mean that the subject refunds could be subject to
20 any date limitation chosen by the Commission. The
21 corresponding rule 25-30.350 clearly states that
22 all overcharges must be refunded, not merely the
23 ones chosen by the Commission.

24 Due to the important public policy
25 implications for all customers across the state in

1 terms of how the Commission's rules apply, we
2 propose that you hold this docket in abeyance while
3 OPC seeks a declaratory statement on the generic
4 question of whether and how Rules 30.350 and 30.360
5 should be harmonized.

6 So every customer in the state needs to know
7 that whether or not they would receive full refunds
8 if they were overbilled, or whether they are at
9 risk of paying more for their service than the
10 tariffs require, then never being made whole once
11 the overbilling is discovered.

12 This specific case is not simply about two KWR
13 customers, but rather it's about the 14 or so
14 customers discussed in the PA order. Beyond that,
15 the case is also about the underlying rule
16 interpretation issue that affects all customers
17 statewide in addition to these KW customers.

18 As stated, the Commission does not have to
19 decide on OPC's motion for final summary -- summary
20 final order today, but could hold the case in
21 abeyance for a short time while the generic rule
22 interpretation issue is resolved by declaratory
23 statement.

24 Briefly, as to the motion to dismiss and
25 motion to strike, OPC agrees with staff that OPC's

1 standing in this matter is dictated by statute and
2 that the Agrico test for non-statutory standing is
3 inapplicable.

4 OPC further agrees with staff's analysis that
5 OPC's legal conclusion is supported by sufficient
6 factual allegations to defeat a motion to dismiss
7 or failure to state a cause of action.

8 Regarding KW's cross motion for final -- for
9 summary final order, KW failed to quote the
10 complete sentence of the rule on which its case
11 relies. They cite to Rule 25-30.360, section one,
12 subsection one, which reads, quote, "with the
13 exception of deposit refunds, all refunds ordered
14 by the Commission shall be made in accordance with
15 the provision of this rule, unless otherwise
16 ordered by the Commission." KW left out the last
17 phrase, which wholly undermines its argument that
18 Rule 30.360 is the only rule which could apply to
19 this case.

20 As I just explained previously, KW
21 misconstrued Rule 25-30.360, but the correct
22 interpretation of the rule dictates that KW's
23 motion must be denied.

24 As explained, 350 is a substantive rule in
25 calculating, determining the overcharge, while 360

1 is a procedural rule, which merely outlines a
2 process to follow after calculation has been -- for
3 the overcharge has been determined. So ministerial
4 procedural aspects, again, interest to be owed.
5 You know, identity of customers.

6 In summary, with the exception of the
7 recommendation on OPC's motion for partial summary
8 final order, staff's conclusions are correct. All
9 of KW's motions should be denied. And,
10 additionally, OPC does not object to holding the
11 case in abeyance until after the Commission issues
12 a declaratory statement on how Rules 25-30.350 and
13 30.360 should be harmonized.

14 CHAIRMAN GRAHAM: Thank you, OPC.

15 Staff, I'm sure you guys have some clarifying
16 questions.

17 MR. SCHRADER: Could you gives us, like, five
18 minutes just to discuss for just a moment?

19 CHAIRMAN GRAHAM: Hold on. Hold on.

20 MS. HELTON: I'm not sure we need five
21 minutes. I don't believe that a declaratory
22 statement that we first heard of this morning is
23 appropriate in this instance. As I understand the
24 law on declaratory statements, it's not an
25 appropriate way to resolve an issue that is in

1 litigation and we are now in litigation mode.

2 I also don't believe that it's appropriate for
3 OPC to file a declaratory statement asking what
4 conduct is appropriate on behalf of the utility.

5 So for at least those two reasons, I don't
6 think a declaratory statement is appropriate. Mr.
7 Bullock may be able to come up with more, or her
8 lawyers. So I don't think a declaratory statement
9 is appropriate.

10 Staff believes that both partial -- both
11 motions for summary judgment should be denied
12 because we believe there needs to be more facts
13 developed to put the issues in context so we can
14 make -- ultimately make a recommendation to you
15 whether the overbilling rule applies.

16 COMMISSIONER GRAHAM: So say you all? All
17 right --

18 MR. FRIEDMAN: You got a minute for a comment?

19 CHAIRMAN GRAHAM: Sure.

20 MR. FRIEDMAN: I find it interesting,
21 particularly -- and in response to the staff's
22 position, I've already outlined, these two
23 settlement agreements clearly, unequivocally
24 resolve the issue of those refunds to those two
25 particular customers. May not on anything else,

1 but it clearly does within those and don't have the
2 parameters and the authority to grant what would be
3 called a partial summary final order and get rid of
4 those two customers and get that out of here.

5 Interesting, OPC's comments on the refund
6 where it was pointed out that the language says all
7 refunds ordered by the Commission shall be made in
8 accordance with the provision of this rule, unless
9 otherwise ordered by the Commission. I mean,
10 that's exactly what you did. You set up an
11 audit -- I'm sorry. You -- you established an
12 audit to do a billing analysis, a billing audit.
13 You set a time frame. You set the objectives. You
14 did all that and that fits clearly within what this
15 sentence is, unless otherwise ordered by the
16 Commission. That's exactly what you did. This
17 isn't a customer complaint to seek a refund. This
18 is a Commission-ordered audit where the Commission
19 determined the scope of the audit and the depth of
20 the audit and the time frame for the audit. That
21 takes completely that rule out of play. Thank you.

22 CHAIRMAN GRAHAM: OPC, quick question.
23 You're -- I guess you're alleging that the deal
24 struck between Safe Harbor and Sunset Marina
25 doesn't include all the customers, that it just

1 happens to be just these two?

2 MS. MORSE: Yes.

3 CHAIRMAN GRAHAM: And that -- what about
4 you're also alleging that there's an overage. Do
5 we know that there's some kind of overage, or
6 you're just saying that the facts just aren't there
7 and that's what your concern is?

8 MS. MORSE: Mostly that the facts aren't
9 there, but our preliminary analysis of the other
10 customers who are listed indicates that if the
11 audit stretch back to 2009 properly that they might
12 be owed even more money.

13 CHAIRMAN GRAHAM: Okay. Commissioner Brown.

14 COMMISSIONER BROWN: Thank you. I have a
15 question for Mary Anne. When the Commission
16 considered the PAA, the show cause, we addressed
17 Rule 360, which is the refund, the issue of
18 refunds. We never discussed 350, which I believe
19 is the overbilling. So is it even appropriate to
20 be addressing 350? It wasn't even considered in
21 our order.

22 MS. HELTON: It wasn't considered in the
23 order. And, quite frankly, I'm not sure why it was
24 not considered in the order. I am not bothered by
25 looking at whether the rule should be applied in a

1 hearing. So I guess to answer your question, I
2 don't think the fact that 350 was not in the order
3 precludes your ability to look at it now. Any
4 PAA -- any evidentiary hearing is a de novo
5 proceeding, so it's as if the order did not exist.

6 COMMISSIONER BROWN: Thank you. Just two
7 questions for OPC. To get back to your oral
8 argument, and I know our legal advisor has told us
9 that a declaratory statement is not appropriate
10 with -- while we have pending litigation. I agree
11 with that advice, as well, but I do want to ask you
12 what you were stating, a question to clarify. You
13 were stating that 350 was the substantive rule
14 regarding overbilling and 360 is the procedural
15 aspects. Can you kind of explain that a little bit
16 and how you see those two rules interplaying, if
17 they do interplay?

18 MS. MORSE: Yes. Our position is that the
19 section 350 on overbillings is clear on its face
20 that if there's an overbilling, that is the amount
21 and that is the time frame. It sets out all the
22 parameters for determining the amount of an
23 overbilling, whereas 360 is less about calculating
24 the actual overbilling itself, but more about
25 how -- the process you follow afterward in

1 refunding the money.

2 COMMISSIONER BROWN: And I respect the fact --
3 the inquiry that you have, about harmonizing those
4 two rules. This posture, you guys protested this
5 back in September. I thought that we would have
6 had this at least resolved and this set for hearing
7 swiftly, but all of these different motions have
8 been filed, so it's delayed us setting it to
9 hearing. And I think all of this can be fleshed
10 out during the administrative hearing.

11 I have a question for Mr. Willis, though,
12 regarding audits and the audit period. It's your
13 contention that you feel that the Commission should
14 go back to 2009 in doing its audit review and that,
15 I guess, if we go back to 2009 that there would be
16 potentially additional customers that could
17 potentially have been overbilled, is that correct?

18 MR. WILLIS: Well, Commissioner, that's a good
19 question. The -- I believe if you actually look at
20 2530 -- or .350, it basically says that the
21 Commission should go back to the point in time they
22 determine there was a possibility of overbilling
23 and in this case the audit itself did not go back
24 that far. What we're saying is that you may not
25 find new customers; you may find that the customers

1 that were already identified, may be due additional
2 refunds because there was potential over-earnings
3 at that point.

4 COMMISSIONER BROWN: But wouldn't a settlement
5 agreement that's in place with -- among those
6 customers obviate that?

7 MR. WILLIS: Well, during my time with the
8 Commission I may have given the legal opinion,
9 but --

10 COMMISSIONER BROWN: You're not a lawyer,
11 though.

12 MR. WILLIS: In my present time that's
13 probably not a good idea.

14 COMMISSIONER BROWN: Let me switch gears real
15 quick. So as someone in audit, who has been in
16 audit and understands the Commission's practices,
17 doesn't the Commission have discretion to order an
18 audit for a specified period of time?

19 MR. WILLIS: Well, you do if it's not
20 encompassed by a rule, and the purpose -- I happen
21 to be here at the time when both of these rules
22 were written and the purpose of 350 was strictly
23 dealing with what happens when a company underbills
24 or overbills.

25 COMMISSIONER BROWN: I am so sorry. I can --

1 there's a lot of talking going on over here. I
2 can't really focus on what you're saying.

3 CHAIRMAN GRAHAM: Staff. Staff. That's all
4 right. When we have two Commissioners that have
5 questions and then we'll take a five-minute break
6 before we make any decisions.

7 MS. HELTON: Thank you.

8 COMMISSIONER BROWN: Sorry, Mr. Willis.

9 MR. WILLIS: I believe the whole purpose
10 behind 350 was to basically lay out how far back a
11 Commission should go on -- when a company actually
12 overbills. We all know that for underbilling, the
13 rule says you only go back a year and that's mainly
14 because the company has the records. They know
15 what they were charging. When it comes to
16 overbilling, it really is -- the onus is upon the
17 customers to identify that or public council or
18 some intervenor to identify that. You wouldn't
19 expect a company to come forward occasionally to
20 say, hey, we overbilled, we need to back and
21 refund.

22 Because of that, the Commission decided in
23 that 350 that you should go back to the point in
24 time that there was overbilling. Actually, when it
25 occurred, if you can identify that. If you can't

1 identify it, and there have been cases in the past
2 where I was here, where we couldn't really identify
3 it because the records weren't there and we didn't
4 have any other evidence to say at what point in
5 time that overbilling might have occurred, then we
6 went back to a point in time where we believed we
7 encompassed all of the overbilling.

8 COMMISSIONER BROWN: But -- but, and I know
9 where you're going, but what Mr. Friedman cites
10 360, and then I guess your counsel added the
11 additional language that was excluded from his cite
12 about or the Commission -- or what the Commission
13 orders. And so in our PAA show-cause order, we've
14 referenced 360 and we reference a certain period of
15 time in that and staff went back to that period of
16 time. So wouldn't 360 then dictate the time period
17 covering the audit?

18 MR. WILLIS: Well, 360 was actually designed
19 to do nothing more than lay out how the Commission
20 administratively deals with refunds. That's all
21 360 does. And, of course, you use 360 in a rate
22 case, whether it's PAA or a final determination,
23 you use it when -- for any other process where the
24 Commission comes up with a refund necessary.

25 When it gets back to the customer-of-record

1 date, water and wastewater used to not have a
2 customer record date, but we found back when the
3 rule was established that electric did. Any time
4 you issued a refund in an electric case, there
5 always was an establishment of a customer-of-record
6 date.

7 And the reason for that is because you don't
8 want to have customers after that record date
9 getting a refund they're not deserving. It also
10 picked a point in time where the company would go
11 to its records and say all the records -- all the
12 customers of record on that day are the ones we're
13 going to give refund to. No one prior to that, no
14 one after that, but it's as of that date. That's
15 the whole purpose of having that customer-of-record
16 in that rule, is for the Commission to establish
17 what day the company goes to its records and
18 establishes what customers are actually there to
19 give a refund to on that date.

20 COMMISSIONER BROWN: Thank you, Mr. Willis.
21 Could I --

22 CHAIRMAN GRAHAM: Commissioner Clark.

23 COMMISSIONER CLARK: Thank you, Mr. Chairman.
24 I just had a couple of questions, I guess more
25 procedurally than anything. I'm not

1 understanding -- and maybe Ms. Helton can help me.
2 Our decision here today is on disposition of these
3 two motions. How is this -- this isn't the
4 hearing. I mean, how far can we get into -- do I
5 need to start lining my questions up about the
6 settlement agreement, or is that not appropriate
7 today?

8 MS. HELTON: Absolutely not, Commissioner. As
9 you said, you've already decided oral argument was
10 appropriate so there's two issues: One, should the
11 Commission grant the motion to dismiss or strike by
12 KW; and the other is whether the Commission should
13 grant the motions for summary judgment,
14 cross-motions, I guess, filed by both parties. And
15 if you have a resolution for both of those motions,
16 then that's all we need to do today.

17 COMMISSIONER CLARK: That makes a hearing
18 pretty much automatic. I'm assuming both parties
19 still want to contest this?

20 MS. HELTON: Yes, sir.

21 COMMISSIONER CLARK: Okay. Thank you. I'm
22 making certain on I'm not completely lost.

23 CHAIRMAN GRAHAM: Do you have a quick
24 question?

25 COMMISSIONER BROWN: On the procedural route,

1 too, and thank you Commissioner Clark for pointing
2 that out, and we'll get into all this during the
3 hearing, but I would ask staff since public council
4 filed its intervention or protest in September I
5 would like to direct staff once we vote on these
6 two issues to set the parameters for hearing
7 swiftly so that this goes to hearing in an
8 expeditious time.

9 MS. HELTON: Well, we will come and work with
10 your office on an order establishing procedure,
11 Commissioner.

12 CHAIRMAN GRAHAM: I told staff I'd take a
13 five-minute break before we make any determination
14 so we'll break until 10:30 in the back of that
15 clock. We're in recess.

16 (Brief recess.)

17 CHAIRMAN GRAHAM: All right. So issue No. 1
18 was, yes, we granted the oral arguments. Issue No.
19 2, should the Commission grant Key West's motion to
20 dismiss or strike.

21 Commissioner Clark, do you have a motion for
22 that?

23 COMMISSIONER CLARK: Yes, sir, Mr. Chairman.
24 I move the Commission deny KWRU's motion to dismiss
25 or strike.

1 COMMISSIONER POLMANN: Second.

2 COMMISSIONER BROWN: Second.

3 CHAIRMAN GRAHAM: It's been moved and
4 seconded. Any further discussion on Issue No. 2?

5 (No comments made.)

6 CHAIRMAN GRAHAM: Seeing on, all in favor say,
7 aye.

8 (Chorus of ayes.)

9 CHAIRMAN GRAHAM: Any opposed?

10 By your action, you've approved staff rec on
11 Issue 2.

12 Issue No. 3. Should the Commission grant
13 OPC's motion for partial summary final order or
14 KW's cross-motion for summary final order?

15 COMMISSIONER CLARK: Mr. Chairman, move both
16 motions be denied.

17 COMMISSIONER BROWN: Second.

18 COMMISSIONER POLMANN: Second.

19 CHAIRMAN GRAHAM: It's been moved and
20 seconded, that both motions be denied in Issue No.
21 3. Any further discussion?

22 (No comments made.)

23 CHAIRMAN GRAHAM: Seeing none, all in favor
24 say, aye.

25 (Chorus of ayes.)

1 CHAIRMAN GRAHAM: Any opposed?

2 (No comments made.)

3 CHAIRMAN GRAHAM: By your action, you've
4 approved that motion.

5 Issue No. 4. Should this docket be closed?
6 Staff, this docket is going to stay open, correct?

7 MR. SCHRADER: That's correct, Commissioner.

8 CHAIRMAN GRAHAM: And we need a motion to that
9 effect.

10 MR. SCHRADER: Yes, sir.

11 CHAIRMAN GRAHAM: Okay. Commissioner Clark,
12 you're doing such a great job.

13 COMMISSIONER CLARK: Thank you, Mr. Chairman.
14 Move that the docket be remained -- remain open.

15 CHAIRMAN GRAHAM: It's been moved and
16 seconded. Any further discussion on Issue No. 4?

17 (No comments made.)

18 CHAIRMAN GRAHAM: Seeing none, all in favor
19 say aye.

20 (Chorus of ayes.)

21 CHAIRMAN GRAHAM: Any opposed?

22 (No comments made.)

23 CHAIRMAN GRAHAM: By your action you have
24 dealt with Issue No. 4.

25 That concludes our agenda. We are going to

1 have IA over in the IA chamber in ten minutes. So
2 that's ten minutes. We're adjourned.

3 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, DANA W. REEVES, Professional 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 14th day of March, 2019.



DANA W. REEVES
NOTARY PUBLIC
COMMISSION #FF968527
EXPIRES MARCH 22, 2020