

State of Florida



Public Service Commission

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

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

DATE: March 21, 2019

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Smith II, Buys) *JST MC ALM*
Division of Economics (Sibley, Hudson) *PO SH MS*
Division of Engineering (Doehling, Graves) *JD W R L JTB*
Office of the General Counsel (Dziechciarz, Weisenfeld) *RD AJW TM*

RE: Docket No. 20180215-WS – Petition for limited alternative rate increase in Highlands County by LP Waterworks, Inc.

AGENDA: 04/02/19 – Regular Agenda – Proposed Agency Action – Except Issue No. 3 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: 04/22/19 – 90-day deadline pursuant to Rule 25-30.457(11), F.A.C.

SPECIAL INSTRUCTIONS: None

Case Background

LP Waterworks, Inc. (LP Waterworks or Utility) is a Class C utility serving approximately 449 water and 393 wastewater customers in Highlands County. The Utility's last approved rate increase was in 2017.¹

On November 26, 2018, LP Waterworks filed an application for a limited alternative rate increase (LARI) pursuant to Rule 25-30.457, Florida Administrative Code (F.A.C.). On December 20, 2018, staff notified the Utility that it met the initial requirements of Rule 25-

¹Order No. PSC-2017-0334-PAA-WS, issued August 23, 2017, in Docket No. 20160222-WS, *In re: Application for staff-assisted rate case in Highlands County by LP Waterworks, Inc.*

30.457, F.A.C. Therefore, pursuant to Rule 25-30.457(4), F.A.C., the official date of filing was established as January 22, 2019, and the 90-day time frame for the Commission to render a decision began on that date.

As stated above, the Commission last set rates for LP Waterworks in 2017. In that rate case, the Commission found the Utility's overall quality of service to be satisfactory. No complaints concerning water quality were received by the Commission or the Florida Department of Environmental Protection (DEP) since the last rate case. The Utility has received seven complaints concerning water quality since the last rate case.

Staff notes that the most recent DEP compliance test results, dated November 11, 2018, demonstrate that the Utility is currently in compliance with DEP secondary standards. A customer meeting was held on February 26, 2019, in Lake Placid, Florida. Approximately 10 customers attended. Four customers spoke at the meeting, including the president of the property owner's association. Three customers raised concerns regarding the requested rate increase. The association president voiced concerns on the requested rates and taste of the water. His written comments were subsequently filed with the Commission.² The Utility provided a written response to those comments which is included in the docket file.³

Rule 25-30.457, F.A.C., was adopted on March 15, 2005. The Rule was amended in 2008, 2014, and 2018. Under provisions of this Rule, the Commission previously approved applications filed by only two other utilities in 2006.⁴

The Commission has jurisdiction pursuant to Sections 367.0814(9) and 367.121(1), Florida Statutes.

²Document No. 01366-2019, filed on March 4, 2019.

³Document No. 02914-2019, filed on March 8, 2019.

⁴Order No. PSC-06-0444-PAA-WU, issued May 22, 2006, in Docket No. 20050880-WU, *In re: Petition for limited alternative rate increase in Lake County by Brendenwood Water System, Inc.*, and Order No. PSC-06-0822-PAA-WU, issued October 6, 2006, in Docket No. 20060416-WU, *In re: Petition for limited alternative rate increase in Polk County by Pinecrest Ranches, Inc.*

Discussion of Issues

Issue 1: Should the Commission approve LP Waterworks, Inc.'s application for a limited alternative rate increase?

Recommendation: Yes. The Commission should approve LP Waterworks' application for a limited alternative rate increase in the amount of 20 percent. This equates to an increase of \$23,061 for water and \$21,378 for wastewater.

Pursuant to Rule 25-30.457(12), F.A.C., the Utility is required to hold any revenue increase granted subject to refund with interest for a period of 15 months after the filing of its annual report for the year the adjustment in rates was implemented. If overearnings occur, such overearnings, up to the amount held subject to refund, with interest, must be disposed of for the benefit of the customers. After the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility must file reports with the Office of Commission Clerk no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed must also indicate the status of the security being used to guarantee repayment of any potential refund. (Smith II)

Staff Analysis: Pursuant to Rule 25-30.457, F.A.C., any utility eligible to file for a staff-assisted rate case may petition the Commission for a rate increase of up to 20 percent applied to metered or flat recurring rates as an alternative to a rate case. This Rule was designed to streamline the rate increase process for qualifying small water or wastewater companies, by establishing an abbreviated procedure for a limited rate increase that is less time consuming and thus less costly for utilities, their customers, and the Commission. This Rule is similar to the rules governing price index and pass-through increases in that neither an engineering review nor a financial audit of the utility's books and records is required.

On November 26, 2018, LP Waterworks notified the Commission of its intent to implement a limited alternative rate increase of 20 percent pursuant to Rule 25-30.457, F.A.C. The application met the initial requirements of the Rule, and January 22, 2019, was established as the official filing date.

Staff reviewed the Utility pursuant to the criteria listed in Rule 25-30.457(5), F.A.C., and recommends that LP Waterworks qualifies for staff assistance pursuant to subsection (1) of this Rule and the Utility's books and records appear to be organized consistent with Rule 25-30.110, F.A.C. Staff also verified that the Utility is current on the filing of regulatory assessment fees and annual reports. The Utility has been in operation over a year and filed additional relevant information in support of eligibility. Despite the fact that the Utility received a rate increase less than two years from the date of filing of its petition, LP Waterworks remains in a negative earnings posture based on information provided in the Utility's 2017 and 2018 Annual Reports. Based on the information described above, staff recommends approval of the Utility's petition.

The data presented in the application was based upon annualized revenues by customer class and meter size for the period ended September 30, 2018, the most recent 12-month period. Based on annualized revenues of \$115,420 for water and \$106,888 for wastewater, a 20 percent increase

would result in an annual increase in revenues of \$23,061 for water and \$21,378 for wastewater. This produces total annual service revenues of \$138,481 for water and \$128,266 for wastewater.

Pursuant to Rule 25-30.457(12), F.A.C., the Utility is required to hold any revenue increase granted subject to refund with interest in accordance with Rule 25-30.360, F.A.C., for a period of 15 months after the filing of its annual report for the year the adjustment in rates was implemented.

After the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility must file reports with the Office of Commission Clerk no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed must also indicate the status of the security being used to guarantee repayment of any potential refund.

Staff reviewed the personal financial statements of the primary shareholder, which is the company's president.⁵ The president has provided a personal guarantee of any rate increase approved in this docket.⁶ Based on the above, staff believes that in this circumstance the company's president has demonstrated the financial ability to guarantee the refund, if necessary.

To ensure overearnings will not occur due to the implementation of this rate increase, the Commission will conduct an earnings review of LP Waterworks' annual report for the year the adjustment in rates was implemented. If overearnings occur, such overearnings, up to the amount held subject to refund, with interest, will be disposed of for the benefit of the customers.

⁵Document No. 05042-2018 (Confidential), in Docket No. 20180066-WU.

⁶Document No. 03208-2019, filed March 20, 2019.

Issue 2: What are the appropriate monthly service rates for LP Waterworks, Inc.?

Recommendation: The existing service rates for LP Waterworks should be increased by 20 percent in accordance with Rule 25-30.457, F.A.C. The recommended service rates are shown on Schedule No. 1. The Utility should file tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice. (Sibley)

Staff Analysis: Based on staff's recommended approval of the Utility's limited alternative rate increase in Issue 1, the existing service rates for LP Waterworks should be increased by 20 percent in accordance with Rule 25-30.457, F.A.C. Therefore, staff calculated rates by applying the 20 percent increase across-the-board to the existing base facility and gallonage charges. The Utility's existing water and wastewater rates and the staff recommended rates are shown on Schedule No. 1. The Utility should file tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. In addition, the rates should not be implemented until staff has approved the proposed customer notice. The Utility should provide proof of the date notice was given no less than 10 days after the date of the notice.

Issue 3: Should the recommended rates be approved for LP Waterworks on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

Recommendation: Yes. Pursuant to Rule 25-30.457(15), F.A.C., in the event of a protest of the Proposed Agency Action (PAA) Order by a substantially affected person other than the Utility, LP Waterworks should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon the Utility filing a staff-assisted rate case application within 21 days of the date the protest is filed.

The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the Utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25-30.457(17), F.A.C., if the Utility fails to file a staff-assisted rate case application within 21 days in the event there is a protest, the application for a limited alternative rate increase will be deemed withdrawn. (Smith II) (Final Agency Action)

Staff Analysis: This recommendation proposes an increase in water and wastewater rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Rule 25-30.457(15), F.A.C., in the event of a protest of the PAA Order by a substantially affected person other than the Utility, LP Waterworks should be authorized to implement the rates established in the LARI PAA Order on a temporary basis subject to refund upon the Utility filing a staff-assisted rate case application within 21 days of the date the protest is filed.

The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. If the recommended rates are approved on a temporary basis, the incremental increase collected by the Utility will be subject to the refund provisions outlined in Rule 25-30.360, F.A.C. Pursuant to Rule 25-30.457(17), F.A.C., if the Utility fails to file a staff-assisted rate case application within 21 days in the event there is a protest, the application for a limited alternative rate increase will be deemed withdrawn.

Issue 4: Should this docket be closed?

Recommendation: No. In the event of a protest, LP Waterworks may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the Utility's filing of a staff-assisted rate case application within 21 days of the date of the protest. If LP Waterworks fails to file a staff-assisted rate case within 21 days, the Utility's petition for a limited alternative rate increase will be deemed withdrawn pursuant to Rule 25-30.457(17), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets, which reflect the Commission-approved rates, and customer notice have been filed by LP Waterworks and approved by staff, and so that staff may conduct an earnings review of the Utility pursuant to Rule 25-30.457(12), F.A.C. Upon staff's approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(12)-(14), F.A.C., this docket should be closed administratively. (Dziechciarz, Weisenfeld)

Staff Analysis: In the event of a protest, LP Waterworks may implement the rates established in the PAA Order on a temporary basis, subject to refund with interest, upon the Utility's filing of a staff-assisted rate case application within 21 days of the date of the protest. If LP Waterworks fails to file a staff-assisted rate case within 21 days, the Utility's petition for a limited alternative rate increase will be deemed withdrawn pursuant to Rule 25-30.457(17), F.A.C. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, a consummating order should be issued. The docket should remain open for staff's verification that the revised tariff sheets, which reflect the Commission-approved rates, and customer notice have been filed by LP Waterworks and approved by staff, and so that staff may conduct an earnings review of the Utility pursuant to Rule 25-30.457(12), F.A.C. Upon staff's approval of the tariff and completion of the earnings review process as set forth in Rule 25-30.457(12)-(14), F.A.C., this docket should be closed administratively.

**LP Waterworks, Inc.
 Monthly Water Rates**

	Existing Rates	Staff Recommended Rates
Residential and General Service		
Base Facility Charge by Meter Size		
5/8" x 3/4"	\$9.85	\$11.82
3/4"	\$14.78	\$17.73
1"	\$24.63	\$29.55
1 1/2"	\$49.26	\$59.10
2"	\$78.82	\$94.56
3"	\$157.65	\$189.12
4"	\$246.32	\$295.50
6"	\$492.65	\$591.00
Gallage Charge - Residential Service		
Charge Per 1,000 gallons		
0-3,000 gallons	\$5.66	\$6.79
Over 3,000 gallons	\$8.32	\$9.98
Gallage Charge - General Service		
Charge Per 1,000 gallons		
	\$6.81	\$8.17
Private Fire Protection		
Base Facility Charge by Meter Size		
5/8" x 3/4"	\$0.82	\$0.98
3/4"	\$1.23	\$1.47
1"	\$2.05	\$2.46
1 1/2"	\$4.11	\$4.92
2"	\$6.57	\$7.88
3"	\$13.14	\$15.76
4"	\$20.53	\$24.62
6"	\$41.05	\$49.25
Typical Residential 5/8" x 3/4" Meter Bill Comparison		
2,000 Gallons	\$21.17	\$25.40
6,000 Gallons	\$51.79	\$62.13
10,000 Gallons	\$85.07	\$102.05

**LP Waterworks, Inc.
 Monthly Wastewater Rates**

	Existing Rates	Staff Recommended Rates
Residential Service		
Base Facility Charge – All Meter Sizes	\$14.93	\$17.91
Charge Per 1,000 gallons 6,000 gallon cap	\$7.72	\$9.26
General Service		
Base Facility Charge by Meter Size		
5/8" x 3/4"	\$14.93	\$17.91
3/4"	\$22.40	\$26.87
1"	\$37.33	\$44.78
1 1/2"	\$74.66	\$89.55
2"	\$119.46	\$143.28
3"	\$238.92	\$286.56
4"	\$373.31	\$447.75
6"	\$746.63	\$895.50
Charge Per 1,000 gallons	\$9.27	\$11.12
Typical Residential 5/8" x 3/4" Meter Bill Comparison		
2,000 Gallons	\$30.37	\$36.43
6,000 Gallons	\$61.25	\$73.47
10,000 Gallons	\$61.25	\$73.47