

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: August 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Engineering (Wright, Kistner) *TB*
Division of Accounting and Finance (Richards, D. Brown) *MC ALM*
Division of Economics (Hudson, Sibley) *JGH*
Office of the General Counsel (Murphy) *JTL*

RE: Docket No. 20200169-WS – Application for staff-assisted rate case in Lake County, and request for interim rate increase, by Lake Yale Utilities, LLC.

AGENDA: 09/01/20 – Regular Agenda – Decision on Interim Rates – Participation is at the Discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: 11/12/21 (15-Month Effective Date (Staff-assisted rate case))

SPECIAL INSTRUCTIONS: None

Case Background

Lake Yale Utilities, LLC (Lake Yale or Utility) is a Class C utility serving approximately 405 residential customers and one general service water customer, and approximately 336 residential customers and one general service wastewater customer in Lake County. The Commission last set rates in an original certificate proceeding in 1994.¹ However, the Utility's rates have been amended through eight price index rate increases. The Utility was transferred to the present

¹Order No. PSC-94-0171-FOF-WS, issued February 10, 1994, in Docket No. 19930133-WS, *In re: Application for Water and Wastewater Certificates in Lake County by LAKE YALE CORPORATION d/b/a LAKE YALE UTILITY COMPANY.*

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operator in 2018.² The Utility has never had a staff-assisted rate case before the Commission. According to Lake Yale's 2019 Annual Report, total gross water revenue was \$68,906, total gross wastewater revenue was \$55,021, total water operating expense was \$62,611, and total wastewater operating expense was \$64,539.

On June 19, 2020, Lake Yale filed its application for a staff-assisted rate case. The Utility has requested a test year ended December 31, 2019, for purposes of interim and final rates.

This recommendation addresses the Utility's request for interim rates. The Commission has jurisdiction pursuant to Sections 367.082 and 367.0814(4), Florida Statutes (F.S).

²Order No. PSC-2018-0554-PAA-WS, issued November 20, 2018, in Docket No. 20170220-WS, *In re: Application for approval of transfer of Lake Yale Treatments Associates, Inc. water and wastewater systems and Certificate Nos. 560-W and 488-S in Lake County to Lake Yale Utilities, LLC.*

Discussion of Issues

Issue 1: Should an interim revenue increase be approved?

Recommendation: Yes. Lake Yale should be authorized to collect interim revenues as indicated below:

	Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Water	\$68,906	\$0	\$68,906	0.00%
Wastewater	\$55,021	\$9,966	\$64,987	18.11%

Test year revenues are sufficient to cover staff-adjusted operation and maintenance (O&M) expenses for the water system, but not the wastewater system. As such, an interim revenue increase is warranted for the wastewater system but not the water system. (Richards, D. Brown)

Staff Analysis: On June 19, 2020, Lake Yale filed an application requesting an interim revenue increase in its wastewater rates. Section 367.0814(4), F.S., details the criteria for evaluating a request for an interim rate increase for staff-assisted rate cases.

Section 367.0814(4), F.S., states:

The Commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

Staff has reviewed the Utility's O&M expenses in relation to its revenues. Based on the Utility's filing, staff recommends that Lake Yale has demonstrated a *prima facie* entitlement to an interim rate increase in accordance with Section 367.0814(4), F.S.

Revenue Increase

In order to establish interim rate relief as prescribed by Section 367.0814(4), F.S., staff used the Utility's revenues reflected in its 2019 Annual Report for the test year ended December 31, 2019. The filed revenues exceeded O&M expenses for the water system, but not for the wastewater system. Thus, staff recommends an interim increase for the wastewater system only. The test year revenues for wastewater are \$55,021, and the test year O&M expenses for wastewater are \$64,539. The difference between the Utility's reported revenues and O&M expenses for wastewater is \$9,518.

In addition, the interim wastewater increase should be grossed up to include regulatory assessment fees (RAFs). The Commission has previously determined that it would be

inappropriate to approve an increase in a Utility’s rates to cover its operating expenses and deny that same utility the funds to pay RAFs.³ Furthermore, by approving an interim rate increase that allows for the payment of RAFs, the Utility should be able to fully cover its O&M expenses. The RAFs associated with the interim increase equal \$448.

In total, Lake Yale should be allowed an interim wastewater revenue increase of \$9,966 (\$9,518 + \$448) to produce revenues sufficient to cover O&M expenses and additional RAFs. Thus, staff recommends the appropriate interim revenue requirement should be \$64,987. This is an 18.11 percent increase above the Utility’s wastewater test year revenues. Table 1-1 illustrates staff’s interim increase calculation.

**Table 1-1
 Determination of Interim Increase**

	Water	Wastewater
1. Utility Test Year O&M Expenses	\$62,611	\$64,539
2. Less: Utility Test Year Revenues	<u>\$68,906</u>	<u>\$55,021</u>
3. Revenues to Cover O&M Expenses	<u>(\$6,295)</u>	<u>\$9,518</u>
4. Interim Revenue Increase	\$0	\$9,518
5. RAFs on Interim Rate Increase	<u>\$0</u>	<u>\$448</u>
6. Total Interim Revenue Increase (\$)	<u>\$0</u>	<u>\$9,966</u>
7. Total Interim Revenue Increase (%)	0.00%	18.11%

Source: Utility’s 2019 Annual Report and staff’s calculations.

³Order No. PSC-01-1654-FOF-WS, issued August 13, 2001, in Docket No. 20010396-WS, *In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.*

Issue 2: What are the appropriate interim wastewater rates?

Recommendation: The interim rate increase of 18.11 percent should be applied as an across-the-board increase to the wastewater service rates in effect as of December 31, 2019. The rates, as shown on Schedule No. 1, should be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code (F.A.C.). The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, staff has approved the proposed customer notice, and the notice has been received by the customers. The Utility should provide proof of the date the notice was given within 10 days of the date of the notice. (Sibley)

Staff Analysis: Staff recommends that wastewater interim service rates for Lake Yale be designed to allow the Utility the opportunity to generate annual operating revenues of \$64,987 for wastewater. Since there were no miscellaneous service revenues reported by the Utility for the test year, this would result in an increase of \$9,966 (18.11 percent) to service rates.

Staff recommends that the wastewater interim rate increase of 18.11 percent should be applied as an across-the-board increase to the service rates in effect as of December 31, 2019.⁴ The rates, as shown on Schedule No. 1, 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. The Utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates should not be implemented until the required security has been filed, staff has approved the proposed customer notice, and the notice has been received by the customers. The Utility should provide proof of the date the notice was given within 10 days of the date of the notice.

⁴The Utility had a 2020 price index effective June 5, 2020. Interim rate increases are applied to the rates in effect at the end of the test year.

Issue 3: What is the appropriate security to guarantee the interim increase?

Recommendation: The Utility should be required to open an escrow account or secure a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, the Utility should deposit \$831 into the escrow account each month. Otherwise, the surety bond or letter of credit should be in the amount of \$6,648. Pursuant to Rule 25-30.360(6), F.A.C., the Utility should provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund should be with interest and in accordance with Rule 25-30.360, F.A.C. (Richards, D. Brown)

Staff Analysis: Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission. As recommended in Issue 1, the interim increase for wastewater is \$9,966. In accordance with Rule 25-30.360, F.A.C., staff calculated the potential refund of revenues and interest collected under interim conditions to be \$6,648. This amount is based on an estimated eight months of revenue being collected under the recommended interim rates shown on Schedule No. 1.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Staff reviewed Lake Yale's financial condition. Because the Utility has no meaningful liquidity, has negative interest coverage, has reported significant net losses year over year, and has negative ownership equity, staff does not believe the Utility can support a corporate undertaking in the amount requested at this time. Staff recommends Lake Yale be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refund.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

1. The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement.
2. No monies in the escrow account may be withdrawn by the Utility without the express approval of the Commission Clerk, or his or her designee.
3. The escrow account shall be an interest-bearing account.
4. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
5. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility.
6. All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
7. The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
8. This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to *Cosentino v. Elson*, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

9. The account must specify by whom and on whose behalf such monies were paid.

If the security provided is a surety bond or a letter of credit, said instrument should be in the amount of \$6,648. If the Utility chooses a surety bond as security, the surety bond should state that it will be released or terminated only upon subsequent order of the Commission. If the Utility chooses to provide a letter of credit as security, the letter of credit should state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered releasing the funds to the Utility or requiring a refund.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the Utility. Irrespective of the form of security chosen by the Utility, an account of all monies received as a result of the rate increase should be maintained by the Utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

Issue 4: Should this docket be closed?

Recommendation: No. Staff recommends that this docket should remain open to address the merits of Lake Yale's staff-assisted rate case. (Murphy)

Staff Analysis: Staff recommends that this docket should remain open to address the merits of Lake Yale's staff-assisted rate case.

LAKE YALE UTILITIES, LLC		SCHEDULE NO. 1	
TEST YEAR ENDED DECEMBER 31, 2019		DOCKET NO. 20200169-WS	
MONTHLY WASTEWATER RATES			
	RATES IN EFFECT AT 12/31/19 (1)	CURRENT RATES (2)	STAFF RECOMMENDED INTERIM RATES
<u>Residential Service</u>			
All Meter Sizes	\$10.67	\$10.86	\$12.60
Charge per 1,000 gallons 10,000 gallon cap	\$2.72	\$2.77	\$3.21
<u>General Service</u>			
5/8" X 3/4"	\$10.67	\$10.86	\$12.60
3/4"	\$16.01	\$16.29	\$18.90
1"	\$26.68	\$27.15	\$31.50
1 1/2"	\$53.35	\$54.30	\$63.00
2"	\$85.36	\$86.88	\$100.80
3"	\$170.72	\$173.76	\$201.60
4"	\$266.75	\$271.50	\$315.00
6"	\$533.50	\$543.00	\$630.00
8"	\$853.60	\$868.80	\$1,008.00
Charge per 1,000 gallons	\$3.24	\$3.30	\$3.83
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$18.83	\$19.17	\$22.23
6,000 Gallons	\$26.99	\$27.48	\$31.86
10,000 Gallons	\$37.87	\$38.56	\$44.70
(1) The interim rate increase was applied to the rates in effect as of 12/31/2019.			
(2) The current rates became effective June 5, 2020 as a result of a price index.			