

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request of PALM COAST UTILITY CORPORATION for approval of a new class of water service, special service availability charges and a developer agreement with the DUNES COMMUNITY DEVELOPMENT DISTRICT in Flagler County)	DOCKET NO. 890173-WU
)	ORDER NO. 21606
)	ISSUED: 7-26-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 BETTY EASLEY
 GERALD L. GUNTER
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION

ORDER APPROVING A NEW CLASS OF WATER SERVICE, APPROVING A DEVELOPER AGREEMENT, SUBJECT TO MODIFICATIONS, AND APPROVING SPECIAL SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

CASE BACKGROUND

Palm Coast Utility Corporation (PCUC), a wholly owned subsidiary of ITT, is a utility which provides water and sewer service to Palm Coast, in Flagler County. Palm Coast, which is primarily being developed by ITT Community Development Corporation (ICDC), a wholly owned subsidiary of ITT, is currently about 10 percent built out and consists of approximately 5,000 residential, multi-family and commercial customers.

DOCUMENT NUMBER-DATE

07511 JUL 26 1989

FPSC-RECORDS/REPORTING

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The Dunes Community Development District (District) is "a local unit of special purpose government" created pursuant to Chapter 190, Florida Statutes. As such, by Order No. 18503, issued December 7, 1987, this Commission indicated that the District was exempt from its regulation under the governmental agency exemption, Section 367.022(2), Florida Statutes. The purpose of the District is to finance and manage the construction, maintenance and operation of the major infrastructures for Hammock Dunes, a 2,000 acre development, which will be developed primarily by Admiral Corporation (Admiral), a wholly owned subsidiary of ICDC. The governing body of the District is a five-member Board of Supervisors. Initially, the board will be elected by landowners. Currently, the vast majority of land is owned by ITT. After October, 1991, the board will be elected by qualified electors.

NEW CLASS OF SERVICE

On April 14, 1988, PCUC filed a request for approval of an April 8, 1988 "developer agreement" between PCUC and the District. The agreement essentially provides for the following:

1. PCUC will provide water to the District for resale;
2. The District will pay an initial advance capacity charge of \$1,050,389.55 to PCUC, including \$335,389.55 in tax gross-up, for a reserved capacity of 100,000 gallons per day;
3. Advance capacity charges will be reviewed every two years and adjusted as necessary;
4. Advance capacity charges will be based upon constant dollar determinations utilizing the Handy-Whitman index procedure;
5. The District will install a six-inch meter and a six-inch detector check;
6. The District will own, operate and maintain the transmission and distribution system beyond the meter;
7. Rates will be \$184.07 per month for the six-inch meter plus \$0.95 per thousand gallons of metered water;
8. PCUC will delete the District from its certificated territory, and;
9. Failure to obtain the Commission's approval of the agreement will nullify the agreement.

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In addition to the above, we are informed that revenue bonds, secured by ITT, have been issued and that a portion of the proceeds therefrom will be used to pay to PCUC the advance capacity charges. We also note that Admiral has agreed to pay a minimum number of connection charges to the District for each year from 1990 to 1998.

In August, 1988, the Staff of this Commission (Staff) completed its initial analysis of the agreement and directed a number of inquiries to PCUC regarding the agreement. PCUC responded to Staff's inquiries in late September, 1988. Staff still had several questions regarding the agreement and, therefore, met with PCUC in October and again in November, 1988, in an attempt to clear up Staff's remaining difficulties. In January of 1989, PCUC submitted a summary of both the background of the agreement and the agreement itself.

Based upon the information supplied by PCUC, Staff determined that the agreement was not just a developer agreement, but an agreement for a new class of service. Accordingly, this docket was opened on February 1, 1989.

The major reason behind the agreement was the potential magnitude of demand that the District would place on PCUC's water facilities. It is estimated that by 1999, the District will require approximately 500,000 gallons per day to meet its average demand. It is also anticipated that this substantial demand will accelerate the need for additional investments in water facilities. We believe that these additional investments should be borne by the District rather than PCUC's general body of ratepayers. Since there is presently a relationship between PCUC and the District, we have carefully scrutinized the agreement in order to ensure that there are no elements of inequity, cross-subsidization or preferential treatment for any party.

The nature of service to the District will be different than service to the general body of ratepayers. Accordingly, the charges for such service should also be different. The proposed advanced capacity charges were designed to provide a full recovery of PCUC's investment in plant used and useful in providing water service to the District. Since PCUC will fully recover its investment in plant utilized to serve the District, the District should not pay a return on investment, depreciation expense, property taxes or income taxes in its

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rates. To include those costs in the District's rates would be discriminatory.

Subject to the above considerations and a number of modifications, which will be discussed more fully hereunder, we find it appropriate to approve the new class of service and the developer agreement between PCUC and the District.

ADVANCE CAPACITY CHARGES

PCUC's calculation of the proposed advance capacity charge is attached as Schedule No. 1. Our calculation of the appropriate advance capacity charge is attached as Schedule No. 2.

In designing its proposed charges for the District, PCUC began with its investment in plant as determined in its last rate case, which was processed under Docket No. 870166-WS. The test year for that proceeding was the historical twelve-month period ended December 31, 1986. PCUC took all of these plant costs, with the exception of distribution mains, service laterals, meters and hydrants, and trended these costs forward to July 1, 1987, using the Handy-Whitman index. The lines, meters and hydrants were excluded because the District will install its own transmission and distribution system. Next, PCUC divided each line item of trended plant, using the NARUC Uniform System of Accounts, by that line item's capacity in equivalent residential connections (ERCs). PCUC then added the resulting costs per ERC for each of these line items, which resulted in a total cost of \$1,580 per ERC. Finally, PCUC divided the total \$1,580 per ERC cost by the average flow of 221 gallons per day per ERC. Using the methodology described above, PCUC determined that the appropriate plant capacity charge for the District is \$7.15 per gallon.

The \$7.15 per gallon capacity charge translates to a total of \$715,000 in advance capacity charges for 100,000 gallons of capacity for the first period contemplated by the agreement between PCUC and the District. The first period will commence sometime around June of 1989 and extend two years into the future. The current charge for plant capacity for the general body of ratepayers currently is \$2.64 per gallon, which charge was designed to recover 75 percent of the treatment plant. The District's capacity charge is higher due to PCUC's full

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recovery of plant costs and the fact that these costs have been indexed through 1988.

We agree with the general methodology used to determine the advance capacity charges, however, we find it appropriate to make two adjustments. First, the original plant investments were trended to July 1, 1987 using the Handy Whitman Index. At the time the agreement was written, the July index was probably the most current index available. We believe that it is appropriate to update the trending to January 1, 1989, which more closely relates to the hypothetical time of construction if the District were constructing its own water treatment facilities.

Second, PCUC calculated the treatment capacity in terms of ERCs by using a plant capacity of 6,000,000 gallons per day. In PCUC's last rate case, by Order No. 18265, issued January 1, 1988, we included an allowance of 170,000 gallons per day for water used within the plant. This adjustment effectively reduced the plant capacity to 5,830,000 gallons per day. We believe that this reduced capacity is more appropriate in the calculation of the proper plant capacity charge.

We have reviewed PCUC's level of contributions-in-aid-of-construction (CIAC) both before and after the collection of CIAC from the District. It appears that PCUC will remain within the guideline levels of CIAC as established under Rule 25-30.580, Florida Administrative Code.

Based upon PCUC's methodology and the adjustments discussed above, we find that the appropriate advance capacity charge per gallon should be \$7.89, as opposed to the proposed charge of \$7.15. The initial charge is based on an estimated usage of 100,000 gallons as the average daily water demand that will occur on or before April 25, 1990. Accordingly, we find that the appropriate advance capacity charge for 100,000 gallons of daily demand is \$789,000, exclusive of any gross-up of CIAC.

GROSS-UP OF CIAC

By Order No. 16971, issued in Docket No. 860184-PU on December 18, 1986, we authorized corporate water and sewer utilities to elect to gross-up CIAC in order to offset the tax consequences of the repeal of Section 118(b), Internal Revenue

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Code. PCUC was one of the approximately forty-five utilities which chose to gross-up CIAC. By Order No. 21266, issued May 22, 1989, we established certain more stringent guidelines related to the collection of gross-up amounts. By Order No. 21436, issued June 26, 1989, we required PCUC, among other utilities, to refund all contributed taxes in excess of taxes actually paid as a result of its collection of CIAC. Orders Nos. 21266 and 21436 have both been protested. Accordingly, the future of the entire concept of the gross-up is in question. If PCUC does not gross-up CIAC, we believe that PCUC's collection of CIAC from the District will result in the general body of ratepayers subsidizing the District. Therefore, since we believe that the massive amount of CIAC that will be involved in this project justifies PCUC's continued collection of CIAC gross-up amounts from the District, we hereby require PCUC to gross-up CIAC collected from the District, notwithstanding our final decision or PCUC's eventual disposition in Docket No. 860184-PU.

RATES

In its calculations of the appropriate base facility charge (BFC), PCUC began with operating and maintenance expenses and property tax amounts established in its last rate case. It allocated these expenses to the District and applied a used and useful adjustment based upon the last rate case. In addition, PCUC allocated adjusted expenses for supply and treatment, transmission and distribution, general and administrative, payroll and property taxes, insurance and regulatory assessment fees to the BFC and gallonage charge in the usual manner utilized by this Commission. It then divided \$243,902, the total cost of service allocated to the BFC, by 55,252, the annual number of ERCs for 1986, for a basic charge of \$3.68 per ERC. PCUC then multiplied the basic charge by 50 ERCs, the ERC equivalent for a six-inch meter, producing a monthly BFC of \$184.07. For the gallonage charge, PCUC divided \$387,099, the total cost of service allocated to the gallonage charge, by 407,474, the annual number of thousands of gallons of water billed for 1986. This calculation produced a gallonage charge of \$0.95 per thousand gallons. The current charges for a six-inch meter are \$387.00 for the BFC and \$2.64 per thousand gallons of metered water. The charges to the District are less than those to the general body of rate payers because the District will have paid the entire cost of the plant in advance

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plant capacity charges. Accordingly, there are no return on investment, depreciation or income tax components in the calculations of the appropriate rates for the District.

Based upon the discussion above, we find that PCUC's calculations of the BFC and gallonage charge are in accordance with accepted Commission practice and appear reasonable. The proposed BFC and gallonage charges are, therefore, approved.

PRIVATE FIRE PROTECTION CHARGE

According to the agreement, the District will install, at its own expense, a six-inch master meter and a six-inch leak detector. The meter will have the dual capability of providing domestic flows through the primary chamber, in which flow measurement takes place, and high demand flows through both chambers when demand exceeds the single chamber limit. High demand is generally only a phenomenon of demands during fire flow requirements or during a large break in the transmission and distribution system. The detector indicates when flow has occurred through the high demand chamber.

The nature of the District's meter will place the service it receives in a category analogous to other master-metered general service customers who have private fire protection service through non-metered connections. A private fire protection connection gives the recipient of that service fire protection that is materially superior to customers without such service.

PCUC currently has an approved tariff which includes charges for private fire protection. The BFC for private fire protection is one-third of the BFC for the equivalent meter size. As discussed above, the appropriate BFC for the District's six-inch meter is \$184.07. Accordingly, we believe that PCUC should be and is hereby authorized to charge the District for private fire protection. We find that the appropriate charge is one-third of the BFC, or \$61.36 per month.

EFFECTIVE DATE OF RATES AND CHARGES

Prior to its implementation of the charges approved herein, PCUC shall file tariff pages in accordance with our decision.

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The rates and charges approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages. The revised tariff pages shall be approved upon the expiration of the protest period and upon Staff's verification that the revised tariff pages accurately reflect our decision.

Upon consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the provisions of this Order are issued as proposed agency action and will become final unless an appropriate petition is filed with the Director of the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0850, by the close of business on August 16, 1989. It is further

ORDERED that a new class of bulk water service to the Dunes Community Development District is hereby approved as set forth in the body of this Order. It is further

ORDERED that the April 8, 1988 developer agreement between Palm Coast Utility Corporation and the Dunes Community Development District is hereby approved, subject to the modifications discussed in the body of this Order. It is further

ORDERED that Palm Coast Utility Corporation is hereby authorized to collect the rates and charges set forth in the body of this Order. It is further

ORDERED that, prior to its implementation of the rates and charges set forth in the body of this Order, Palm Coast Utility Corporation shall file tariff pages in accordance with our decision in this docket. The tariff pages will be approved upon Staff's verification that they accurately reflect our decision on these matters. It is further

ORDERED that Palm Coast Utility Corporation shall collect contributed taxes on CIAC collected from the Dunes Community Development District, notwithstanding our final decision or Palm Coast Utility Corporation's eventual disposition in Docket No. 860184-PU. It is further

ORDERED that after August 16, 1989 this Commission will issue either a notice of further proceedings or an order

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indicating that the provisions of this Order have become final and effective.

By ORDER of the Florida Public Service Commission
this 26th day of JULY, 1989


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

RJP

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on August 16, 1989. In the absence of such a

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petition, this order shall become effective August 17, 1989 as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on August 17, 1989, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

Schedule No. 1
Plant Capacity Charges Per Agreement

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ACCOUNT NUMBER	ACCOUNT TITLE	HISTORICAL DEC 31, 1986	TRENDED July 1, 1987	VARIANCE	PERCENT INCREASE	CAPACITY ERCs	COST PER ERC		% APPL TO BEACH	ADJ TREN COST/ERC BEACH
							HIST	TREND		
301	ORGANIZATION	6,130	15,398	9,268	151.19%	5521	1	3		
302	FRANCHISE	2,664	7,610	4,946	185.66%	5521	0	1		
303	MISC	110,777	199,416	88,639	80.02%	5521	20	36		
310	LAND	125,450	135,575	10,125	8.07%	10790	12	13	100	13
311	STRUCTURES	8,891	12,123	3,232	36.35%	10790	1	1	100	1
314	WELLS	3,127,992	4,055,026	927,034	29.64%	10790	290	376	100	376
316	MAINS	1,595,329	2,114,844	519,515	32.56%	10790	148	196	100	196
317	MISC	13,459	19,899	6,440	47.85%	10790	1	2	100	2
320	LAND	3,138	5,323	2,185	69.63%	13425	0	0		
321	STRUCTURES	96,327	177,596	81,269	84.37%	13425	7	13	100	13
323	MISC	8,027	11,426	3,399	42.34%	13425	1	1	100	1
325	ELECTRIC EQUIP	298,196	473,633	175,437	58.83%	13425	22	35	100	35
326	DIESEL EQUIP	72,099	101,698	29,599	41.05%	13425	5	8	100	8
330	LAND	143,867	160,992	17,125	11.90%	13425	11	12	100	12
331	TREAT PLANT	1,142,548	1,403,815	261,267	22.87%	13425	85	105	100	105
332	TREAT EQUIP	4,032,802	4,883,472	850,670	21.09%	13425	300	364	100	364
340	LAND	31,935	34,954	3,019	9.45%	13425	2	3	100	3
341	STRUCTURES	5,499	5,897	398	7.24%	13425	0	0	100	0
342	STORAGE	1,631,467	1,622,401	(9,066)	-0.56%	13425	122	121	100	121
343	TRANS MAINS	6,871,283	9,050,758	2,179,475	31.72%	29627	232	305	100	305
343	DIST MAINS	17,616,692	20,855,012	3,238,320	18.38%	47812	368	436		
344	FIRE MAINS	150,396	187,598	37,202	24.74%	47812	3	4	100	4
345	SERVICES	469,142	759,695	290,553	61.93%					
346	METERS	394,263	440,596	46,333	11.75%					
347	METER INSTALL	458,395	547,025	88,630	19.33%					
348	HYDRANTS	1,673,463	2,289,040	615,577	36.78%	10825	155	211		
390	GEN PLANT	1,912,190	2,168,776	256,586	13.42%	47812	40	45	49	22 ERC
	TOTAL	42,002,421	51,739,598	9,737,177	23.18%		1,827	2,292		1,580 221

Schedule No. 2

Plant Capacity Charges Per Commission

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ACCOUNT NUMBER	ACCOUNT TITLE	HISTORICAL DEC 31, 1986	TRENDED JAN 1, 1989	VARIANCE	PERCENT INCREASE	CAPACITY ERCs	COST PER ERC		% APPL TO BEACH	ADJ TRENDED COST/ERC BEACH	
							HIST	TREND			
301	ORGANIZATION	6,130	16,982	10,852	177.03%	5521	1	3			
302	FRANCHISE	2,664	8,393	5,729	215.05%	5521	0	2			
303	MISC	110,777	219,932	109,155	98.54%	5521	20	40			
310	LAND	125,450	145,346	19,896	15.86%	10790	12	13	100		13
311	STRUCTURES	8,891	12,997	4,106	46.18%	10790	1	1	100		1
314	WELLS	3,127,992	4,347,280	1,219,288	38.98%	10790	290	403	100		403
316	MAINS	1,595,329	2,257,265	671,936	42.12%	10790	148	210	100		210
317	MISC	13,459	21,333	7,874	58.50%	10790	1	2	100		2
320	LAND	3,138	5,672	2,534	80.74%	12870	0	0			
321	STRUCTURES	96,327	189,232	92,905	96.45%	12870	7	15	100		15
323	MISC	8,027	12,175	4,148	51.67%	12870	1	1	100		1
325	ELECTRIC EQUIP	298,196	504,664	206,468	69.24%	12870	23	39	100		39
326	DIESEL EQUIP	72,099	108,361	36,262	50.29%	12870	6	8	100		8
330	LAND	143,867	166,501	22,634	15.73%	12870	11	13	100		13
331	TREAT PLANT	1,142,548	1,451,854	309,306	27.07%	12870	89	113	100		113
332	TREAT EQUIP	4,032,802	5,050,587	1,017,785	25.24%	12870	313	392	100		392
340	LAND	31,935	44,869	12,934	40.50%	12870	2	3	100		3
341	STRUCTURES	5,499	7,570	2,071	37.66%	12870	0	1	100		1
342	STORAGE	1,631,467	2,082,601	451,134	27.65%	12870	127	162	100		162
343	TRANS MAINS	6,871,283	9,981,906	3,110,623	45.27%	29627	232	337	100		337
343	DIST MAINS	17,616,692	23,000,589	5,383,897	30.56%	47812	368	481			
344	FIRE MAINS	150,396	206,898	56,502	37.57%	47812	3	4	100		4
345	SERVICES	469,142	766,828	297,686	63.45%						
346	METERS	394,263	440,596	46,333	11.75%						
347	METER INSTALL	458,395	570,106	111,711	24.37%						
348	HYDRANTS	1,673,463	2,465,120	791,657	47.31%	10825	155	228			
390	GEN PLANT	1,912,190	2,391,901	479,711	25.09%	47812	40	50	49		25
	TOTAL	42,002,421	56,487,559	14,485,138	34.49%		1,851	2,522			1,743
											ERC 221

\$7.89