

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition of GULF AIRE)	DOCKET NO. 881024-SU
WASTEWATER TREATMENT PLANT for)	ORDER NO. 22339
implementation of AFPI charges in)	ISSUED: 12-26-89
Gulf County.)	
)	

The following Commissioners participated in the disposition of this matter:

- MICHAEL McK. WILSON, Chairman
- THOMAS M. BEARD
- BETTY EASLEY
- GERALD L. GUNTER
- JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION

ORDER MODIFYING AFPI CHARGES AND REQUIRING REFUND OF EXCESS AFPI COLLECTIONS

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

Gulf Aire Properties, Inc. d/b/a Gulf Aire Wastewater Treatment Plant (Gulf Aire) is a Class C utility which provides wastewater service to approximately 120 customers in Gulf County.

On July 29, 1988, Gulf Aire filed an application for an allowance for funds prudently invested (AFPI) charge. By Order No. 20886, issued March 13, 1989, we established AFPI charges for both the treatment facilities and the collection facilities.

On August 11, 1989, the Gulf Aire Property Owners Association, Inc. (Association) filed a complaint regarding the AFPI charges. Accordingly, we reopened this docket in order to review a number of issues.

DOCUMENT NUMBER-DATE

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NOTICE

The Association's first complaint is that Gulf Aire failed to provide adequate notice of its application for AFPI charges. Although there are no specific noticing requirements for AFPI applications, by letter dated December 1, 1988, the Staff of this Commission suggested that the utility provide notice in accordance with Rule 25-30.565, Florida Administrative Code, which details the noticing requirements for applications for new or modified service availability policies or charges. The Association argues that Gulf Aire failed to comply with subsection (2)(a), under which notice should have been given to all existing customers and subsection (2)(b), which required notice to be published once each week for three consecutive weeks in a newspaper of general circulation in the service area involved.

In its response to the complaint, the utility argues that it met the requirements of Rule 25-30.565, Florida Administrative Code, by publishing notice in the News-Herald, a daily newspaper published in Panama City. Gulf Aire contends that, while there are a couple of local weekly newspapers in which it could have published notice, the News-Herald is the only daily newspaper in general circulation in the service area other than the Tallahassee Democrat. The utility also included a letter from Gail Bannister, the advertising sales manager for the News-Herald, which states that the News-Herald is the only daily paper, other than the Tallahassee Democrat, that serves the Gulf Aire area.

Although the notice was not published in Gulf County, Rule 25-30.565(2)(b), Florida Administrative Code, only requires that notice be published in a newspaper of general circulation in the affected area. We, therefore, find that Gulf Aire met the published notice requirement. However, it does not appear that the utility provided notice to each existing customer.

Even though an AFPI charge would not affect most existing customers, there are several members of the Association who own more than one lot in the service area. Had notice been provided to these customers in the first place, this case might not be back before the Commission at this time. Notwithstanding the above, we do not believe that the utility should be required to re-notice each of the customers since, from the Association's complaint, it appears that the customers have actual notice of the AFPI charge. Further, since it is

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the complainant in this matter, the Association should receive a copy of this Order. It will, therefore, have actual notice of the action proposed herein.

INCLUSION OF NON-UTILITY COSTS

The next concern raised by the Association is whether non-utility costs, specifically costs for land purchased for development, were included in the calculation of the AFPI charge.

An AFPI charge is designed to allow a utility to recover the carrying costs related to non-used and useful plant, including a return on the utility's investment in such plant. In this case, the plant is 100 percent funded by debt. Gulf Aire has submitted documentation of a \$900,000 loan with Bay Bank, of which \$225,000 is the amount specifically apportioned for utility purposes. Of this amount, only the portion actually related to the non-used and useful plant was included in the AFPI calculation.

Based upon the discussion above, we do not believe that any adjustment to the AFPI calculation is necessary to remove any non-utility costs.

SEA SHORES SUBDIVISION

The next area of concern to the Association relates to the Sea Shores subdivision. The Association argues that 100 connection fees, at \$800 per connection, should have been considered in our calculations of the AFPI charges. The Association also contends that we should have considered the cost of the wastewater collection system for the Sea Shores subdivision in our calculations of the AFPI charges.

Upon review, we note that our original calculations took the Sea Shores subdivision into consideration. Since the subdivision had already paid \$80,000 in service availability charges for wastewater service, we excluded the related plant from the investment that the AFPI charges are designed to recover. We believe that this is the appropriate treatment for the Sea Shores subdivision. Accordingly, we do not believe that any adjustment is necessary or appropriate to account for connection fees for the Sea Shores subdivision.

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In addition, we note that the wastewater collection system for the subdivision was installed by the developers. In other words, the utility has no investment in this property. Although the property has not yet been donated to Gulf Aire, even if it was, the utility would still have no investment in it. It should, therefore, be excluded from the AFPI calculation. Accordingly, we do not find that any adjustment is necessary to account for the wastewater collection system.

NUMBER OF FUTURE CONNECTIONS

Another concern of the Association is the number of lots used in our calculations of the AFPI charges. Originally, we based our calculations of the AFPI charges upon 105 future equivalent residential connections (ERCs) for the wastewater treatment plant and 147 for the wastewater collection system, not including the Sea Shores subdivision or the commercial property between Sea Shores and U.S. Highway 98. These numbers were based upon information supplied by Gulf Aire. After inspecting the utility's system maps and service area, however, we find it appropriate to revise these numbers.

Collection System

For the purpose of establishing the appropriate number of future connections for the collection system, we have treated each unit or single family home lot as one ERC. This is the same treatment given by DER. According to DER, Gulf Aire is permitted to serve 185 more ERCs, not including the Sea Shores subdivision. We do not believe that Gulf Aire will be permitted to connect any more ERCs without further plant expansion.

The Association has asked that we recognize that some of the lots zoned for triplexes have single family homes and duplexes constructed on them and therefore will not incur the maximum density allowed by the zoning. We believe, however, that growth projections should be based upon the zoning in effect at this time, since the plant and system must be capable of handling the flow from the maximum density construction allowed by the current county regulations.

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Based upon the discussion above, we find that the appropriate number of future ERCs for the collection system is 185, calculated as follows:

Gulf Aire Phases I & II	141
Gulf Aire Phase III	8
Gulf Aire Phase IV	13
Bank lot	1
Pelican Walk	14
Gulf Aire Phase III, lot H (quadruplex)	4
Quadruplex (east of lot 1, Pelican Walk)	4
	<hr/>
TOTAL	<u>185</u>

Treatment Plant

The capacity of the treatment plant is 70,000 gallons per day (gpd). The treatment plant cannot serve as many connections as the collection system. It is anticipated that before the service area is built-out, the plant will have to be enlarged. For the purpose of establishing the appropriate number of future available connections to the treatment plant, we have used an average flow of 240 gpd per ERC. Based upon the discussion above, we find that the appropriate number of future ERCs for the treatment plant is 78, calculated as follows:

	Total connections, @ 240 gpd/ERC	292
Less	Active connections	119
Less	Guaranteed revenue connections	<u>95</u>
	Future ERCs available	<u>78</u>

TERRITORIAL DISCREPANCIES

In its complaint the Association also alleged that there are a number of problems with Gulf Aire's territorial description and system maps. The Association contends that there is a missing call in the territorial description, that the dedicated private beach area should be deleted from the territorial description, and that the maps should be revised to show that the pool area is in the service territory. In

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addition, during our examination of the service area discrepancies, we also discovered that the seven easternmost townhomes connected to this system are not included in Gulf Aire's approved service area. Since these discrepancies are not really germane to the establishment of the appropriate AFPI charges, we find it appropriate to open a separate docket to look into these matters.

In addition, the Association has requested that we not include the commercial land of the Sea Shores subdivision in our AFPI calculations. We note this area is outside of Gulf Aire's service territory and that it was not included in our original AFPI calculations. Further, if service was requested for this territory, we believe that further plant expansion would be required. Accordingly, we do not find that any adjustment is necessary to remove the territory.

COSTS OF SYSTEM UPGRADE

Finally, the Association contends that certain costs projected for the plant upgrade, which were included in our calculations of the AFPI charges, were not actually expended. In our original calculations, we estimated the cost of the upgrade to be \$45,000.

It appears now that alternative treatment during the upgrade was not necessary. The projected cost for such alternative treatment was \$12,750. Since alternative treatment was not required, we have removed the entire amount.

In addition, we are informed that Gulf Aire's owner performed most of the work on the upgrade himself. Gulf Aire submitted information indicating that it actually spent \$24,360 for the plant upgrade; however, it was unable to provide checks or invoices for many of these costs. Upon review, we are not convinced that all of these costs are reasonable. Accordingly, we have reduced the costs claimed for labor and removed costs claimed for supervisory functions. Based upon the information submitted by Gulf Aire and the adjustments discussed above, we believe that \$14,436 is a more reasonable cost for the plant upgrade.

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RECALCULATION OF AFPI CHARGES

Upon consideration of the modifications made to the number of future connections, the costs to upgrade the system and the treatment plant flow data used, we believe it appropriate to recalculate Gulf Aire's AFPI charges. Our revised calculations are attached to this Order as Schedule No. 1-A for the treatment facilities and Schedule No. 1-B for the collection facilities.

REFUND OF EXCESS AFPI COLLECTIONS

The Association's complaint was made long after the AFPI charges were approved. It appears that the utility has collected AFPI charges from only three customers.

Although no amounts were made subject to refund, since the previously approved charges were based upon erroneous information, we believe it appropriate to require Gulf Aire to refund any AFPI collections in excess of the charges approved herein. Gulf Aire shall, therefore, refund the excess AFPI collected within twenty days of the effective date of this Order.

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 objection is filed with the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0860, by the close of business on the date specified in the Notice of Further Proceedings or Judicial Review. It is further

ORDERED that the AFPI charges previously approved by the Commission by Order No. 20886 are hereby modified as set forth in the body of this Order and in Schedules Nos. 1-A and 1-B, attached hereto. It is further

ORDERED that, prior to its implementation of the modified AFPI charges approved herein, Gulf Aire Wastewater Treatment Plant shall submit tariff pages revised in accordance with our decision on this matter. It is further

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ORDERED that the modified AFPI charges approved herein shall be effective on or after the stamped approval date on the revised tariff pages. It is further

ORDERED that the revised tariff pages will be approved upon Staff's verification that they accurately reflect this Commission's decision and upon the expiration of the protest period. It is further

ORDERED that Gulf Aire Wastewater Treatment Plant shall refund all AFPI collections in excess of the charges approved herein no later than twenty (20) days following the effective date of this Order. It is further

ORDERED that a separate docket should be opened to evaluate the service area discrepancies, as discussed in the body of this Order. It is further

ORDERED that, if a protest to this order is not timely filed, Docket No. 881024-SU shall be closed upon Staff's verification that the refund has been satisfactorily completed.

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



STEVE TRIBBLE, Director
Division of Records and Reporting

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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 January 16, 1990.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date 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 the date described above, 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.

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GULF AIRE WASTEWATER TREATMENT PLANT
TREATMENT FACILITIES
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SCHEDULE 1-A

Allowance for Funds Prudently Invested
Schedule of Charges:

	1989	1990	1991	1992	1993
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January	9.03	117.68	230.62	354.20	489.86
February	18.06	127.02	240.84	365.41	502.21
March	27.09	136.36	251.05	376.62	514.55
April	36.12	145.70	261.27	387.83	526.89
May	45.14	155.04	271.48	399.04	539.24
June	54.17	164.38	281.70	410.25	551.58
July	63.20	173.72	291.91	421.47	563.92
August	72.23	183.06	302.13	432.68	576.27
September	81.26	192.39	312.34	443.89	588.61
October	90.29	201.73	322.56	455.10	600.95
November	99.32	211.07	332.77	466.31	613.30
December	108.35	220.41	342.99	477.52	625.64

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GULF AIRE WASTEWATER TREATMENT PLANT
 COLLECTION FACILITIES
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SCHEDULE 1-B

Allowance for Funds Prudently Invested
 Schedule of Charges:

	1989	1990	1991	1992	1993
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January	8.64	113.08	226.36	352.86	494.40
February	17.29	122.43	236.80	364.54	507.49
March	25.93	131.78	247.24	376.22	520.57
April	34.58	141.13	257.68	387.90	533.66
May	43.22	150.48	268.12	399.57	546.74
June	51.87	159.83	278.55	411.25	559.83
July	60.51	169.18	288.99	422.93	572.91
August	69.16	178.53	299.43	434.60	586.00
September	77.80	187.88	309.87	446.28	599.08
October	86.45	197.23	320.31	457.96	612.17
November	95.09	206.57	330.75	469.64	625.26
December	103.74	215.92	341.19	481.31	638.34