

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate) DOCKET NO. 930826-WS
increase in Marion and Pinellas) ORDER NO. PSC-94-1104-FOF-WS
Counties by UTILITIES, INC. OF) ISSUED: September 7, 1994
FLORIDA)
_____)

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON
DIANE K. KIESLING

ORDER CONFIRMING RATE FOR PINELLAS COUNTY AND
MARION COUNTY WASTEWATER SYSTEM AS FINAL
AND
ACKNOWLEDGING IMPLEMENTATION OF PROPOSED AGENCY ACTION RATES
OR STIPULATED RATES FOR MARION COUNTY WATER SYSTEM

BY THE COMMISSION:

BACKGROUND

Utilities Inc. of Florida (UIF or utility) is a Class A utility providing water and wastewater service to systems in the following counties: Marion, Orange, Pasco, Pinellas and Seminole. This docket involves two systems: Lake Tarpon Mobile Home Park in Pinellas County and Golden Hills in Marion County. The Lake Tarpon system serves 547 water customers. The Golden Hills system provides 338 customers with water and 69 customers with wastewater service.

The Lake Tarpon system is located in the Northern Tampa Bay Water-Use Caution Area as designated by the Governing Board of the Water Management District. A water-use caution area is one where cumulative water withdrawals may cause adverse impacts to the water resource or the public interest. Golden Hills is not in a water-use caution area.

The utility filed an application for approval of interim and final rates on November 5, 1993, pursuant to Sections 367.081 and 367.082, Florida Statutes. However, the information submitted did not satisfy the minimum filing requirements for a general rate increase. The utility filed additional information on December 22, 1993, which satisfied the Commission's filing requirements and this date has been established as the official date of filing. The utility requested that the Commission process its request as

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proposed agency action (PAA) pursuant to Section 367.081(8), Florida Statutes.

The last general rate increase granted by the Commission for these systems was in 1989 (Order No. 21554 issued July 17, 1989 for Golden Hills and Order No. 22160 issued November 7, 1989 for Lake Tarpon). Index and pass-through increases were last granted in August, 1993. The utility's test year is calendar year 1992. In 1992, the utility recorded total revenues for these systems of \$153,372, with \$56,947 provided from the Lake Tarpon system and \$96,245 from the Golden Hills system (\$72,086 in water revenue and \$24,339 in wastewater revenue).

Our staff conducted customer meetings at the Lake Tarpon Mobile Home Park Community Center on February 16, 1994, and at the Golden Hills Golf and Country Club on February 17, 1994. We approved interim rates for both systems in Order No. PSC-94-0250-FOF-WS issued March 7, 1994.

On June 16, 1994, we issued a Notice of Proposed Agency Action Order Granting Final Rates and Charges (Order No. PSC-94-0739-FOF-WS). That Order reviewed the quality of service, rate base, cost of capital, net operating income, revenue requirement, rates and charges, and the books and records of the Marion and Pinellas Systems and established final rates and charges. The Order stated that all provisions would become final and the docket closed unless an appropriate petition is filed, and upon staff's verification of the refund, proof of notice to the customers, and revised tariff sheets. On June 22, 1994, we issued an Amending Order No. PSC-94-0739A-FOF-WS, which corrected the amount of refund for Pinellas County and corrected an error in the date listed for filing a protest. The deadline for filing a protest to the Order was established as July 13, 1994.

On July 11, 1994, Charles Murray filed a timely protest to Order No. PSC-94-0739-FOF-WS on behalf of the Golden Hills Property Owners Association, Inc. (Association). Mr. Murray, a customer of the Marion County water system, raised issues in his petition concerning the utility's rate base, capital structure, operating revenues, quality of service, and rates. The Commission has not received a protest from a customer of the Pinellas County system or any other substantially affected party.

On July 18, 1994, UIF filed a Motion to Confirm as Final Portions of Order No. PSC-94-0739-FOF-WS. In its Motion, UIF stated that because no protests were made to the Pinellas County system, the rates for that system have become final. As to the Marion County systems, UIF stated that because the protest

addressed only the water system, the findings of the PAA order which addressed the wastewater system can be finalized. UIF requested that we confirm as final the portions of the PAA order which establishes rates for the Marion County wastewater system. On July 18, 1994, UIF also filed a Notice of Intent to Implement Increased Rates and Charges in Marion County, along with revised tariff sheets, a proposed customer notice, and corporate undertakings of UIF and its parent, Utilities, Inc.

PINELLAS COUNTY RATES CONFIRMED AS FINAL

Although the utility's applications for a rate increase for its Marion County and Pinellas County systems have been processed in the same docket, the applications and the systems themselves are severable and could have been filed on a separate basis. The applications were processed together for the purpose of administrative efficiency.

To that end, it would be inefficient to conduct a rate proceeding for the Pinellas County system when there has been no protest filed by any individual who is substantially affected by our decision regarding that system. The protests filed on behalf of the association addressed the decision as to the Marion County water system. The association did not protest the portions of the Order which solely addressed the Pinellas County system, nor are the members of the association substantially affected by that portion of the Order.

Therefore, we find it appropriate to acknowledge that the portions of Order No. PSC-94-0739-FOF-WS addressing the Pinellas County system are final and effective as of August 16, 1994.

MARION COUNTY WASTEWATER SYSTEM RATES CONFIRMED AS FINAL

In its motion, UIF requested that this Commission acknowledge the Marion County wastewater rates as set forth in Order No. PSC-94-0739-FOF-WS as final. In support of its request, the utility stated that the protest concerns the portions of the order "that relate to Utilities Inc.'s Marion county water operation" (Emphasis added by UIF). UIF further noted that the Golden Hills Property Owners Association does not have standing to protest the wastewater rates because its residents do not receive wastewater service from the utility. We agree that the protest does not raise issues relating to the wastewater system. Furthermore, the members of the protesting association do not receive wastewater service, and are therefore not substantially affected by our decision as to the Marion County wastewater system.

As noted herein, it would be inefficient to conduct a rate proceeding for a system when no substantially affected person has filed a protest to the PAA order which addresses that system. Although the Marion County water and wastewater systems are located in the same area, we find that the issues raised in the protest do not impact upon the wastewater system. Therefore, we hereby find that the portion of Order No. PSC-94-0739-FOF-WS which addresses the Marion County wastewater system is final and effective as of August 16, 1994.

ACKNOWLEDGEMENT OF IMPLEMENTATION OF PAA RATES OR
STIPULATED RATES FOR THE MARION COUNTY WATER SYSTEM

Pursuant to Section 367.081(8), Florida Statutes, if the PAA order is protested by a party other than the utility, "the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund." The utility must give notice to the Commission and file the appropriate tariffs.

On July 18, 1994, Utilities Inc., of Florida submitted its Notice of Intent to Implement Increased Rates and Charges in Marion County pursuant to Section 367.081(8), Florida Statutes, pending the resolution of the protest filed in this docket. The utility also submitted tariff sheets, a proposed customer notice, and corporate undertakings to secure any potential refund. Although the utility has the right to implement its requested final rates, it elected to implement the final rates and charges approved in PAA Order No. PSC-94-0739-FOF-WS. The rates approved in the Order are lower than the rates request by the utility in the MFRs.

After a review of the tariff sheets, customer notice, and security provided by the utility, we have determined that the utility has met the requirements of Section 367.081(8), Florida Statutes, in order to implement the PAA rates. However, following its July 18, 1994, Notice of Intent, the utility advised the Commission that the parties had verbally agreed to a settlement of the protest and will file a stipulation for approval in the near future. The proposed stipulated rates are less than the rates contained in the PAA order. Therefore, we find it appropriate to acknowledge the utility's implementation of the rates contained in Order No. PSC-94-0739-FOF-WS for water service in Marion County on an interim basis pending the outcome of this rate proceeding. However, the utility shall implement the stipulated rates on an interim basis in the event that the pending stipulation between the parties is executed before the first billing at the new rates. We will address the proposed stipulation at a future date.

SECURITY FOR REFUND

As discussed herein, pursuant to Section 367.081(8), Florida Statutes, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund. In addition to allowing the utility to implement its requested rates, the statute requires that "The utility shall keep accurate records of amounts received as provided by subsection (6)." Subsection (6) specifies that "The utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond, escrow, or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid."

Order No. PSC-94-0250-FOF-WS, issued March 7, 1994, approved an interim increase for Utilities, Inc. of Florida, subject to refund. The Division of Auditing and Financial Analysis determined that the utility's parent, Utilities, Inc., could support a corporate undertaking for the amount of the increase. Therefore, the Order specified that the increase should be guaranteed through a corporate undertaking of the parent in the amount of \$57,400. The utility's parent filed the required corporate undertaking.

Due to the utility's implementation of the higher proposed agency action rates and considering the time over which they will be collected, the level of security for a potential refund must be increased. The utility, on July 18, 1994, filed corporate undertakings by Utilities, Inc. of Florida and the parent, Utilities, Inc., which guarantees the refund of the difference between the rates and charges implemented by Utilities, Inc. of Florida and the final rates and charges approved by the Commission in this proceeding.

The above mentioned original corporate undertaking in the amount of \$57,400 was intended to secure the interim revenues of both Marion and Pinellas Counties. The total refund of interim rates for the Pinellas County water system amounted to \$26,027, as stated in Order No. PSC-94-0739-FOF-WS issued on June 16, 1994. We have calculated the potential additional refund for Marion County's revenues to be \$18,501 and \$3,324 for water and wastewater respectively. Therefore, the total potential refund is approximately \$49,874.

The corporate undertakings filed by the utility and its parent, dated July 15, 1994, are sufficient to be adopted as the security for the additional revenues collected under the proposed agency action rates or the stipulated rates. Additionally, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide a report by the 20th of each month

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indicating the monthly and total revenue collected subject to refund.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the portions of Order No. PSC-94-0739-FOF-WS addressing the Pinellas County system are final and effective as of August 16, 1994. It is further

ORDERED that the portions of Order No. PSC-94-0739-FOF-WS addressing the Marion County wastewater system are final and effective as of August 16, 1994. It is further

ORDERED that Utilities, Inc. of Florida's Notice of Intent to Implement Increased Rates and Charges in Marion County as set forth in Order No. PSC-94-0739-FOF-WS, pursuant to Section 367.081(8), Florida Statutes, pending the resolution of the protest filed in this docket is hereby acknowledged. It is further

ORDERED that if the parties execute a stipulation as to the protest in this docket, Utilities Inc. of Florida shall implement the stipulated rates for the Marion County water system on an interim basis subject to refund, in the event that the pending stipulation between the parties is executed before the first billing at the new rates. It is further

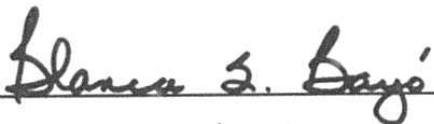
ORDERED that, in the event that Utilities Inc. of Florida implements either the proposed agency action rates for the Marion County water system as provided for in Order No. PSC-94-0739-FOF-WS, or the stipulated rates, the difference between the implemented rates and the utility's previously authorized rates shall be collected subject to refund with interest. It is further

ORDERED that the corporate undertakings filed Utilities Inc. of Florida and its parent company, dated July 15, 1994, shall be adopted as the security for any additional revenues collected under the proposed agency action rates. It is further

ORDERED that during the time the proposed agency action rates, or stipulated rates, are in effect, Utilities Inc. of Florida shall file a report by the twentieth day of each month indicating the monthly and total revenue collected subject to refund, pursuant to Rule 25-30.360(6), Florida Administrative Code.

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By ORDER of the Florida Public Service Commission, this 7th
day of September, 1994.



BLANCA S. BAYÓ, 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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.