

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a staff-) DOCKET NO. 940655-SU
assisted rate case in Citrus) ORDER NO. PSC-94-1515-FOF-SU
County by RHV UTILITY, INC.) ISSUED: December 8, 1994

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER ACKNOWLEDGING WAIVER OF STATUTORY TIMELINE
AND PLACING DOCKET IN MONITOR STATUS FOR 120 DAYS

BY THE COMMISSION:

RHV Utility, Inc. (RHV or utility) is a Class C wastewater utility located in Citrus County. This Commission authorized the transfer of the utility from its prior owner, Homosassa Utilities, Inc. (HUI) to its current owner, RHV Utility, Inc. (RHV), by Order No. PSC-94-1163-FOF-SU, issued September 22, 1994. The utility applied for its previous staff-assisted rate case on December 7, 1990 (Docket No. 900967-SU). By Order No. 24937, issued August 20, 1991, we approved a rate increase for the Riverhaven system.

On June 20, 1994, RHV applied for the staff-assisted rate case at issue in this docket. Pursuant to Section 367.0814(2), Florida Statutes, a staff-assisted rate case must be completed 15 months after the official date of filing. Our staff has audited the utility's records for compliance with Commission rules and orders and determined those components necessary for rate setting. The engineering field audit has also been completed.

The utility was operating properly during our engineer's investigation. However, the utility has had compliance problems with the Department of Environmental Protection (DEP) for quite some time. Under the previous ownership, as far back as 1990, the plant suffered operational problems that exceeded permit requirements of biochemical oxygen demand, total suspended solids, and effluent disposal. The wastewater facility's DEP operating permit expired in October of 1990, and has still not been renewed. In December of 1990, HUI signed a consent order agreement with DEP to make corrections and obtain an operating permit no later than

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September of 1991. Although HUI did perform significant work on the percolation ponds, not all of the requirements of the consent order were achieved and the permit was never renewed. HUI continued to have financial and operational problems, and subsequently filed for bankruptcy.

In the previous rate case, Docket No. 900967-SU, we identified the costs related to the improvements needed to obtain an operating permit, and allowed \$161,855 as pro forma plant (See Order No. 24937). Although not all of the pro forma projects were completed, in Order No. PSC-94-0543-FOF-SU, we acknowledged that the majority of the pro forma costs have been incurred either by HUI or RHV, and the escrowed amounts were released to the present owner.

DEP entered into a consent order agreement with RHV on March 17, 1994. The intent of the new agreement is to provide RHV with temporary authorization to operate the plant, provide a reasonable time frame to correct any problems, secure an operating permit and expand the plant to accommodate future flows of an estimated 122,000 gpd. The agreement listed several deadlines. The utility, at different stages, is to maintain the percolation ponds, submit a Capacity Analysis Report, complete improvements which do not require a permit, submit a construction permit, and complete the construction. The system is to be in compliance no later than March 15, 1996. As a concession to the utility for maintaining the terms of the agreement, DEP will allow, if the Capacity Analysis Report so indicates, 30 additional connections prior to an operating permit being issued. To date, the utility appears to be complying with the time frame, and DEP is presently reviewing a Capacity Analysis Report submitted by the utility for approval.

Commission practice requires signed contracts for all pro forma plant improvements which are to be included in rate base for rate setting purposes. The utility is waiting for DEP's approval of the Capacity Analysis Report before proceeding to the construction permit planning stage of the agreement. Therefore, the utility cannot provide a date certain for obtaining the permit. Furthermore, because improvement planning has not yet been done, the utility cannot provide signed contracts for DEP required improvements.

By letter dated October 25, 1994, the utility requested waiver of the 15-month statutory deadline for completing this rate case. The utility also requested a 120-day delay in processing this rate case to allow additional time to prepare expansion projections and costs.

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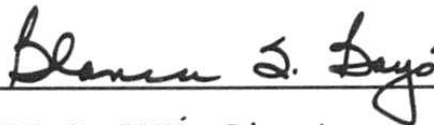
Because the utility does not know when construction permits will be obtained, signed contracts cannot be provided for pro forma plant improvements at this time. In consideration of these circumstances, we find it appropriate to grant the utility's request to waive the statutory timeframe. Further, this docket shall be placed in monitor status for 120 days, commencing on November 22, 1994 and ending on March 22, 1995.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that RHV Utility Inc.'s request to waive the 15-month statutory timeline is hereby granted. It is further

ORDERED that this docket shall be placed in monitor status for 120 days, commencing on November 22, 1994, and ending on March 22, 1995.

By ORDER of the Florida Public Service Commission, this 8th day of December, 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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.