

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for ) DOCKET NO. 960219-WS  
Establishment of Payment Plan ) ORDER NO. PSC-96-0580-FOF-WS  
for Delinquent 1995 Regulatory ) ISSUED: May 3, 1996  
Assessment Fees in Bay County by )  
Bayside Utilities, Inc. )  
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The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING PAYMENT PLAN

BY THE COMMISSION:

Background

Bayside Utilities, Inc. (Bayside or Utility) is a Class C utility providing water and wastewater services to approximately 307 residential customers in Bay County. Bayside reported gross revenues of \$56,059 for water and \$62,691 for wastewater on its 1995 regulatory assessment fee return. As a result, the Utility owes \$5,345.37 for 1995 regulatory assessment fees plus penalty and interest of \$1,870.88 for a current total of \$7,216.25. By correspondence dated January 15, 1996, Bayside requested a payment plan for the amount owed for the 1995 regulatory assessment fees. The purpose of this Order is to address the Utility's request.

Applicable Law and Policy

Section 350.113 (3), Florida Statutes, provides that the Commission, "for good cause shown by written request, may extend for a period not to exceed 30 days the time for paying any fee ...." Rule 25-30.120 (1), Florida Administrative Code, requires utilities to pay a regulatory assessment fee in the amount of four and one-half per cent of gross revenues for the entire year. Rule 25-30.120 (2) (a), Florida Administrative Code, provides that "[r]egulatory assessment fees shall be filed ... on or before March 31 for the preceding year ended December 31." Rule 25-30.120 (2) (b), Florida Administrative Code, provides that "[e]ach utility shall have up to and including the due date in which to: 1. remit the total amount of its fee, or 2. Remit an amount which the

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utility estimates is its full fee, or 3. Seek and receive from the Division of Administration a 30-day extension of its due date ...." If a utility fails to timely pay the regulatory assessment fee as provided in Rule 25-30.120 (2) (b), Florida Administrative Code, a penalty shall be assessed and interest charged, as provided in Section 350.113 (4), Florida Statutes, and Rule 25-30.120 (5), Florida Administrative Code. In three other dockets, the Commission has construed these provisions to bar waiver of regulatory assessment fees, penalties, and interest, but not to preclude a reasonable payment schedule to redress a utility's delinquency. The basic purpose of these provisions would appear to be to set forth the conditions for which penalties, interest and collection costs may be assessed against a delinquent regulated company.

In Docket No. 900961-SU, *In Re: Request for waiver of penalty and interest added to regulatory assessment fees for 1989, by St. George Island, Company, Ltd., in Franklin County*, the Commission, in Order No. 24290, *Order Denying Petition for Waiver of Penalties and Interest*, issued March 26, 1991, permitted the utility to submit a proposed payment schedule for its outstanding regulatory assessment fees, penalties and interest. The Commission noted that it had no statutory authority to grant waiver, and that Section 350.113(5), Florida Statutes, permitted a fee deadline to be extended 30 days for good cause shown. In Order No. 24884, *Order Establishing Payment Schedule for 1988 and 1989 Regulatory Assessment Fees*, issued August 6, 1991, the Commission rejected the utility's proposed payment schedule of \$250 per month for 52 months, but authorized a payment schedule of \$2,500 per month until the balance, then \$13,036, was paid.

In Docket No. 940974-WU, *Application for staff-assisted rate case in Putnam County by Landis Enterprises, Inc.*, the Commission, in Order No. PSC-94-1464-FOF-WU, *Order Establishing Payment Schedule for Application Filing Fees and Delinquent Regulatory Assessment Fees, Including Penalties and Interest*, issued November 29, 1994, permitted the utility to pay its delinquent 1992 and 1993 regulatory assessment fees, with penalties and interest, in four monthly installments. The Commission found that a 12-month period beginning with the due date for the 1993 fee in which to remit the fees was reasonable in the circumstances. It again noted that "[p]ursuant to Sections 350.113(4) and (5), ... and Rule 25-30.120(5), Florida Administrative Code, we are required to collect interest, penalties and collection costs ... Neither the Florida Statutes nor the Commission Rules provide us with discretion to waive fees, penalties and interest." See also, Order No. PSC-94-1463-FOF-WS, *Order Holding Staff-Assisted Rate Case in Abeyance, Conditionally Approving Payment Plan for Application*

*Filing Fees, Conditionally Approving Payment Plan for Delinquent Regulatory Assessment Fee, Denying Request for Waiver of Penalties and Interest, Denying Reinstatement of Suspended Fine, and Order to Show Cause, issued November 29, 1994, Docket No. 940982-WS, In Re: Application for staff-assisted rate case in Volusia County by Pine Island Utility Corporation. The Commission has ruled similarly in Docket Nos. 951244-WS, and 951585-WU, containing Orders Nos. PSC-95-1514-FOF-WS, and PSC-96-0282-FOF-WU, respectively.*

#### 1995 Regulatory Assessment Fees

On January 26, 1996, our staff received a letter from Dorothy Burton, the owner of the Utility explaining that the Utility was gravely affected by Hurricane Opal. Ms. Burton explained that the storm surge damaged over two hundred mobile homes belonging to the Utility's customers. She also stated that revenues for this utility have decreased because approximately 86 of the residents have moved as a result of the total destruction of their mobile homes by Hurricane Opal.

On February 14, 1996, our staff contacted the Utility by telephone and talked with Mr. Jeter, Manager of the Utility. Since the Utility's 1995 annual report was not due until March 31, 1996, our staff asked Mr. Jeter to furnish a copy of the Utility's 1995 regulatory assessment fee return for verification of the gross revenues collected by the Utility in 1995. Our staff also notified Mr. Jeter that the owner's request for a payment plan would be subject to our approval.

On February 22, 1996, a copy of the Utility's 1995 regulatory assessment fee return was filed with our staff. For 1995, Bayside reported gross revenues of \$56,059 for water and \$62,691 for wastewater. As a result, the Utility owes regulatory assessment fees of \$5,345.37 plus penalty and interest of \$1,870.88 for a current total of \$7,216.25. On March 5, 1996, our staff notified Mr. Jeter that because the Utility would not have the 1995 regulatory assessment fees completely paid by the due date of March 31, 1996, the Utility would be required to pay penalty and interest up to the date the debt is paid in full. We believe that a monthly payment of \$902.03 is reasonable. At the rate of \$902.03 per month, regulatory assessment fees for 1995, including penalty and interest shall be paid by December 31, 1996.

Accordingly, we find it appropriate to permit the Utility to discharge the balance of its 1995 regulatory assessment fees, including interest and penalties, by means of a payment plan of \$902.03 per month, with the first payment due May 1, 1996. We note that our approval of a payment plan for delinquent regulatory

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assessment fees is subject to the final approval of the Department of Banking and Finance.

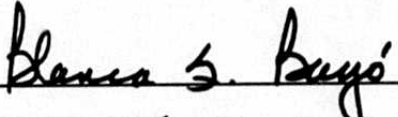
In addition, we place the Utility on notice that if 1996 regulatory assessment fees are not paid by the due date of March 31, 1997, a proceeding will be initiated to require the Utility to place into an interest bearing escrow account 4.5% of the total monthly service revenues billed by the Utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Bayside Utilities, Inc., shall be permitted to discharge the balance owed of its 1995 regulatory assessment fees according to the payment plan described herein, subject to the final approval of the Department of Banking and Finance. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 3rd day of May, 1996.

  
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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.