

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for staff-) DOCKET NO. 960799-WS
assisted rate case in DeSoto) ORDER NO. PSC-96-1284-FOF-WS
County by Lake Suzy Utilities,) ISSUED: October 15, 1996
Inc.)
_____)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING EMERGENCY RATE INCREASE AND
GRANTING EMERGENCY SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is 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.

BACKGROUND

Lake Suzy Utilities, Inc. (utility) is a Class C water and wastewater utility located in DeSoto County. The Commission granted the utility Certificates Nos. 480-W and 416-S in Docket No. 850790-WS, by Order No. 16935, issued December 9, 1986.

The utility purchases water from DeSoto County and resells it to its customers. The utility is currently providing wastewater treatment for some of its customers. However, some of the utility's wastewater customers receive service by Kingsway Properties, Inc., a jurisdictional utility. Based on the utility's 1995 annual report, the utility provides wastewater service to 54 customers.

The utility's initial rates and rate structure were approved by DeSoto County. These rates, with some modification, were approved by the Commission when the utility was granted operating certificates for water and wastewater. Since that time, the utility's rates have been increased through price index and pass

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through applications from 1987 through 1991. The utility has not had a prior rate case.

On July 3, 1996, the utility applied for this staff-assisted rate case. In its application, the utility requested emergency rates and service availability charges for wastewater. This order addresses the utility's request for emergency rates and service availability charges.

EMERGENCY RATES

Lake Suzy has requested an emergency rate increase pending completion of its staff-assisted rate case. The Commission has granted emergency rates only in unique circumstances, because there is typically a lack of adequate financial data to set rates until the staff audit is completed. The Commission has also been reluctant to grant emergency rates due to its concern over Class C utilities' ability to refund. Both of these concerns stem from a desire to protect the ratepayers in the event rates are set too high. See, e.g., Order No. PSC-93-0633-FOF-SU, Order Granting Emergency Temporary Rates and Placing Docket in Monitor Status, In Re: Application for Staff-Assisted Rate Case by L.C.M. Sewer Authority in Lee County, 93 FPSC 4:608, April 22, 1993.

In restricting emergency relief to unique circumstances, we have attempted to encourage timely seeking of rate relief. See, e.g., Order No. PSC-94-1053-FOF-WS, Order Denying Petition for Emergency Rates or for Reconsideration of Order No. 24653, In Re: Application for Staff-Assisted Rate Case in Volusia County by PINE ISLAND UTILITY CORPORATION, 94 FPSC 8:510, August 29, 1994 (emergency rates denied because appropriate only where immediate and urgent need in very unique circumstances). Cf. Order No. PSC-93-1844-FOF-WS, Order Granting Emergency Rates and Charges, In Re: Application for Staff-Assisted Rate Case in Marion County by ASTOR WEST, INC., 93 FPSC 12:528, December 28, 1993 (Commission does not ordinarily consider emergency rates in a staff-assisted rate case unless utility is in receivership, in order to encourage timely seeking of rate relief).

Here, Lake Suzy is not in receivership, although its operating expenses exceed its revenues by a significant amount. The utility has requested an emergency increase in revenue of \$23,579 or 67.11%. The requested increase includes the recovery of the difference between annual revenues and total operating expenses.

Lake Suzy's rates have only been increased through price index and pass through applications from 1987 through 1991. The utility has never had a prior rate case; therefore, its present financial

situation has existed for some time. No evidence of a unique circumstance which precipitated an emergency has been presented, except for perhaps the utility not coming in and seeking timely rate relief. Absent such unique circumstances, the utility has created its own emergency by not seeking timely rate relief.

Although the Commission recognizes that if Lake Suzy was a Class A or Class B utility it would have been able to request interim rates during the ratemaking proceeding, this only suggests that perhaps we should seek a statutory change which allows interim rates for staff-assisted rate cases where it is needed. Granting emergency rates under these circumstances, however, is too broad in terms of defining what is an emergency.

Therefore, Lake Suzy's request for emergency rates is hereby denied.

EMERGENCY SERVICE AVAILABILITY CHARGES

Lake Suzy has also requested emergency wastewater service availability charges pending completion of its staff-assisted rate case. In Order No. 16935, issued December 9, 1986, in Docket No. 850790-WS, this Commission approved service availability charges for the utility's water system. At that time the utility's wastewater was being treated by Kingsway Properties, Inc., a jurisdictional utility. The utility had no investment in the Kingsway System and a wastewater service availability charge was not needed. Since that time the utility constructed its own 50,000 gpd treatment plant. The Department of Environmental Protection (DEP), by a consent order, during the first part of 1994, required the utility to upgrade its wastewater system to comply with treatment and discharge standards. In its application for this rate case, the utility has provided estimated costs for upgrading the existing wastewater treatment system for compliance, the capacity of the upgraded plant, and the gpd usage per equivalent residential connection (ERC). The utility also calculated and requested a service availability charge of \$2,135 per connection.

Based on information submitted by the utility, the utility's existing capacity for the wastewater treatment plant is 50,000 gpd. The utility is adding capacity of 37,000 gpd, which will increase total capacity to 87,000 gpd. The utility's stated average usage is 190 gpd per ERC. Using this information the utility's wastewater treatment plant can accommodate 458 ERCs (87,000 gpd/190 gpd).

Based on the utility's 1995 annual report, the utility provides wastewater service to 54 customers. The utility has no

Commission approved service availability charges and has connected these customers without collecting a charge. The annual reports show contributions in aid of construction (CIAC) for wastewater, which appear to have been contributed by a developer. Even though the utility has never collected service availability charges from the existing customers, emergency service availability charges shall be calculated to include the total number of ERCs the wastewater system can accommodate. Spreading the cost over total ERCs provides a more equitable share for future connections.

The Commission has approved interim service availability charges in prior rate cases. See, e.g., Order No. 20639, issued January 20, 1989, granting interim service availability charges subject to refund for Continental Country Club, Inc. and Order No. 20822, issued February 28, 1989, granting interim service availability charges for Radnor/Plantation Corporation d/b/a Plantation Utilities.

A schedule of the approved charges are as follows:

| <u>Wastewater</u> | |
|-------------------------------------|--------------------------|
| <u>Service Availability Charges</u> | |
| | <u>Emergency Charges</u> |
| Plant capacity | \$ 920 |
| Main extension | <u>\$ 639</u> |
| | \$1,559 |

The approved emergency service availability charges shall be effective for service rendered as of the stamped approval date on the revised tariff sheets provided customers have received notice, in accordance with Rule 25-30.475, Florida Administrative Code. The utility must provide proof that the customers have received notice within ten days of the date of the notice. Tariff sheets will be approved upon verification that the tariff sheets are consistent with this Commission's decision and that the proposed customer notice is adequate. In no event shall the rates be effective for services rendered prior to the stamped approval date.

This docket shall remain open for the processing of the staff-assisted rate case.

Based on the foregoing, it is

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036,

ORDER NO. PSC-96-1284-FOF-WS
DOCKET NO. 960799-WS
PAGE 5

Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

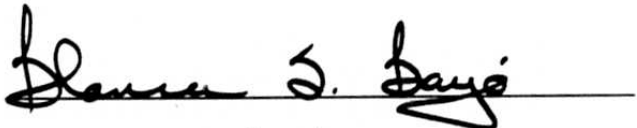
ORDERED that Lake Suzy Utilities, Inc.'s request for emergency rates pending completion of its staff-assisted rate case is hereby denied. It is further

ORDERED that Lake Suzy Utilities, Inc.'s request for emergency or interim service availability charges is hereby granted. It is further

ORDERED that the service availability charges shall be effective for service rendered as of the stamped approval date on the revised tariff sheets provided customers have received notice, in accordance with Rule 25-30.475, Florida Administrative Code. It is further

ORDERED that this docket shall remain open for the processing of the staff-assisted rate case.

By ORDER of the Florida Public Service Commission, this 15th day of October, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

DCW

Commissioner Garcia dissented without opinion.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 5, 1996.

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.

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 substantially 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 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 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.