

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assistance for alternative rate setting for increase in wastewater rates, in Pasco County, by Silver Fox Utility LLC d/b/a Timberwood Utilities.

DOCKET NO. 080497-SU  
ORDER NO. PSC-08-0821-PAA-SU  
ISSUED: December 22, 2008

The following Commissioners participated in the disposition of this matter:

MATTHEW M. CARTER II, Chairman  
LISA POLAK EDGAR  
KATRINA J. McMURRIAN  
NANCY ARGENZIANO  
NATHAN A. SKOP

ORDER GRANTING STAFF ASSISTED ALTERNATIVE RATE SETTING  
PURSUANT TO RULE 25-30.456, F.A.C.

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 (F.A.C.).

**Background**

Silver Fox Utility Company LLC d/b/a Timberwood Utilities (Utility) is a Class C water and wastewater utility serving 159 water and 158 wastewater customers in Pasco County. The Utility is in the Southwest Florida Water Management District (SWFWMD) and is in a critical water use caution area. The Utility purchases bulk water from Pasco County and resells it to its customers. The Utility's 2007 annual report lists total gross revenues of \$36,534 for water and \$40,025 for wastewater with net operating losses of \$6,147 for water and \$8,385 for wastewater.

In 2005, this Commission approved the transfer of this Utility from Mink Associates II, LLC to Silver Fox Utility Company LLC d/b/a Timberwood Utilities.<sup>1</sup> In 2005, the Utility's rate base was also established in a staff assisted rate case.<sup>2</sup>

<sup>1</sup> See Order No. PSC-05-0682-FOF-WS, issued June 20, 2005, in Docket 050062-WS, In re: Joint Application for transfer of Mink Associates II, LLC d/b/a Timberwood Utilities, holder of Certificate Nos. 524-W and 459-S to Silver Fox Utility Company LLC d/b/a Timberwood Utilities, in Pasco County.

<sup>2</sup> See Order No. PSC-05-1218-PAA-SU, issued December 15, 2005, in Docket No. 050274-WS, In re: Application for staff-assisted rate case in Pasco County by Silver Fox Utility Company LLC d/b/a Timberwood Utilities.

DOCUMENT NUMBER DATE

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FPSO-COMMISSION CLERK

On July 14, 2008, the Utility filed an application for a staff-assisted alternative rate setting (SAARS) increase pursuant to Rule 25-30.456, F.A.C. Under the SAARS rule, water and wastewater utilities, whose total gross annual operating revenues are \$150,000 or less for water service or \$150,000 or less for wastewater service, or \$300,000 or less on a combined basis, may petition this Commission for staff assistance in alternative rate setting by submitting a completed application pursuant to Rule 25-30.456, F.A.C. Under this rule, a utility may not be granted an increase in revenues in excess of 50 percent of its test year operating revenues. If a protest is filed, the maximum increase provision provided by Rule 25-30.456(12), F.A.C., would no longer apply, and, at a utility's discretion, it may seek an increase in rates by filing for a staff assisted rate case pursuant to Rule 25-30.455, F.A.C. Pursuant to Rule 25-30.456(13), F.A.C., this Commission shall vote on a proposed agency action (PAA) recommendation establishing rates no later than 90 days from the official filing date.

The official filing date for this SAARS application was established as September 14, 2008. On October 15, 2008, in response to a staff data request, the Utility provided additional support documentation, including invoices showing an increase in sludge removal expenses. The 90-day deadline to process this application is December 16, 2008.

We have jurisdiction pursuant to Section 367.081, Florida Statutes (F.S.).

### Discussion

Pursuant to Rule 25-30.456(11), F.A.C., we shall, for the purposes of determining the amount of rate increase, if any, compare the operation and maintenance (O&M) expenses of the Utility to test year operating revenues. We shall consider an allowance for return on working capital using the one-eighth of O&M formula approach.

In its application, the Utility requested a return on rate base rather than working capital. In addition, the Utility requested recovery for net depreciation expense and taxes other than income. In accordance with Rule 25-30.456(11), F.A.C., we only included the return on working capital and the incremental increase to O&M expenses.

We analyzed the O&M, including sludge disposal fees, chemical supplies, and purchased power charges for the Utility. We believe that three adjustments are necessary. First, upon review of the invoices, we found that the Utility's requested incremental increase for sludge hauling and disposal did not include the most recent disposal fee assessed by Pasco County. The adjustment is necessary to reflect the current rate of \$106.50 instead of the \$99.40 included in the Utility's application. This results in an increase of \$295 for total sludge disposal fees.

Second, the Utility determined its incremental increase in purchased power expense by applying the three-year average annual increase of 17 percent to its 2007 purchased power expenses of \$3,913. This represents an increase of \$655. In accordance with the purchased power pass-through requirements of Rule 25-30.425, F.A.C., we find the incremental increase in purchased power shall be determined using the most recent 12-month consumption and the current electric rates. Using the pass-through methodology, we calculated an incremental increase of \$475.

Third, the Utility determined its incremental increase in chemical expense by applying the three-year average annual increase of 51 percent to its 2007 chlorine expenses of \$1,048. This represents an increase of \$535, yielding an adjusted 2007 amount of \$1,583. We believe the Utility's methodology overstates chemical expenses. Chemical expenses increased by 74 percent from 2005 to 2006, but only increased by 25 percent from 2006 to 2007. Given the fact that the chemical expenses over this two year period increased at a decreasing rate, we believe the Utility's methodology is inappropriate. Because the Utility's growth level has been static for years, we find that the incremental increase shall be determined by applying our 2008 price index increase of 2.39 percent to the Utility's 2007 chlorine expense of \$1,048. Therefore, based on the foregoing analysis, we approve an 11.67 percent revenue increase.

As discussed above, the Utility requested a return on rate base rather than working capital, as well as recovery for net depreciation expense and taxes other than income. This method yielded a revenue requirement of \$55,549, for which the Utility proposed to recover 42 percent from the base facility charge (BFC) and 58 percent from the gallonage charge. In addition, the Utility proposed that its entire incremental revenue increase be recovered through the gallonage charge. Using its proposed rate structure, the Utility calculated a BFC of \$12.28 and a gallonage charge of \$10.14.

Consistent with our foregoing analysis, the incremental revenue increase of \$4,759 or 11.67 percent was based only on O&M expenses and a return on working capital allowance in accordance with Rule 25-30.456(11), F.A.C. We believe the rate increase can be recovered through either an across-the-board increase or, in the alternative, through the gallonage charges only. However, given the level of the increase, we find that an across-the-board increase of the Utility's existing rates is the more appropriate recovery method.

We calculated the rates by applying the 11.67 percent revenue increase across-the-board to the current base facility and gallonage charges. A schedule of the Utility's current rates, the Utility's proposed rates, and our across-the-board rates are as follows:

	<u>Current Rates</u>	<u>The Utility's Proposed Rates</u>	<u>Across-the-Board Rates</u>
<b><u>Residential Service</u></b>			
BFC - All Meter Sizes	\$12.28	\$12.28	\$13.71
Gallorage Charge, per 1,000 gallons (6,000 Gallorage Cap)	\$5.49	\$10.14	\$6.26

	<u>Current Rates</u>	<u>The Utility's Proposed Rates</u>	<u>Across-the-Board Rates</u>
<b><u>General Service</u></b>			
5/8" x 3/4'	\$12.28	\$12.28	\$13.71
3/4"	\$18.41	\$18.41	\$20.56
1'	\$30.69	\$30.69	\$34.27
1 1/2'	\$61.38	\$61.38	\$68.54
2"	\$98.19	\$98.19	\$109.65
3"	\$184.12	\$184.12	\$205.61
4"	\$306.86	\$306.86	\$342.67
6"	\$613.71	\$613.71	\$685.33
Gallorage Charge, per 1,000 gallons	\$6.61	\$10.14	\$7.38

Based on the above rates, the following table reflects estimated residential service wastewater monthly billings for the consumptions shown below:

	<u>Current Rates</u>	<u>The Utility's Proposed Rates</u>	<u>Across-the-Board Rates</u>
3,000 Gallons	\$28.75	\$42.70	\$32.11
5,000 Gallons	\$39.73	\$62.98	\$44.37
8,000 Gallons	\$45.22	\$73.12	\$50.50

Pursuant to this Order, on December 31, 2008, the Utility shall mail the staff-approved customer notice of this decision in order to ensure that customers have adequate notice, in case any customer wishes to file for a hearing pursuant to Rule 25-22.029, F.A.C. The Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. The Utility shall file revised tariff sheets to reflect the approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rates may be prorated. The old charge shall be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge shall be prorated based on the number of days in the billing cycle on or after the effective date of the new rates. In no event shall the rates be effective for service rendered prior to the stamped approval date.

Pursuant to Rule 25-30.456(15), F.A.C., in the event of a timely protest of this Order by a substantially affected party, the rates established in this Order may be implemented on a temporary basis. The temporary rates shall be held subject to refund. Moreover, if a protest is filed, the Utility may elect to pursue rates set pursuant to the rate base determination provisions of Rule 25-30.455, F.A.C. In addition, the maximum increase of up to 50 percent of revenues provided by Rule 25-30.456(12), F.A.C., shall no longer apply. Further, pursuant to Rule 25-30.456(18), F.A.C., if the Utility fails to comply with the dates established in the order establishing procedure, or to timely file a request for extension of time for good cause shown, it may result in dismissal of this SAARS application and closure of this docket.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that an 11.67 percent revenue increase is approved. It is further

ORDERED that on December 31, 2008, the Utility shall mail the staff-approved customer notice of the Commission's decision, in order to ensure that customers have adequate notice in case any customer wishes to file for a hearing pursuant to Rule 25-22.029, F.A.C. It is further

ORDERED that the Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice. It is further

ORDERED that the Utility shall file revised tariff sheets to reflect the Commission-approved rates. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. It is further

ORDERED that pursuant to Rule 25-30.456(15), F.A.C., in the event of a timely protest of the Proposed Agency Action (PAA) Order by a substantially affected party, the rates established in this Order may be implemented on a temporary basis and held subject to refund. It is further

ORDERED that if no timely protest is filed by a substantially affected person within 21 days of this Order, a Consummating Order shall be issued and the docket should be closed. It is further

ORDERED that if a protest is filed within 21 days of the issuance of this Order, the docket shall remain open pending resolution of the protest. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, this docket shall be closed.

By ORDER of the Florida Public Service Commission this 22nd day of December, 2008.



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ANN COLE  
Commission Clerk

( S E A L )

ELS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, 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 will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 12, 2009.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.