

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in Marion County, by East Marion Utilities, LLC. | DOCKET NO. 150257-WS
ORDER NO. PSC-16-0071-PCO-WS
ISSUED: February 15, 2016

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman
LISA POLAK EDGAR
ART GRAHAM
RONALD A. BRISÉ
JIMMY PATRONIS

ORDER GRANTING INTERIM RATES
FOR EAST MARION UTILITIES, LLC

BY THE COMMISSION:

BACKGROUND

East Marion Utilities, LLC (East Marion or Utility) is a Class C utility serving one general service and approximately 100 residential water and wastewater customers in Marion County. Rate base was last established for East Marion in Order No. PSC-02-1168-PAA-WS.¹ By Order No. PSC-15-0576-PAA-WS, we established the net book value for the Utility and adopted the current rates.²

According to East Marion's 2014 annual report, the Utility had water and wastewater operating revenues of \$23,750 and \$35,522, respectively, and operating expenses of \$31,504 and \$37,071, respectively, resulting in net operating losses of \$7,754 and \$1,550. On December 3, 2015, East Marion filed an application for a staff-assisted rate case and requested a test year ending December 31, 2015, for final rate purposes. This Order establishes interim rates for East Marion.

We have jurisdiction pursuant to Sections 367.082 and 367.0814(4), Florida Statutes (F.S.).

¹ Order No. PSC-02-1168-PSS-WS, issued August 26, 2002, in Docket No. 010869-WS, In re: Application for staff-assisted rate case in Marion County by East Marion Sanitary Systems, Inc.

² Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utilities, LLC, in Marion County.

DECISION

Interim Revenues

On December 3, 2015, East Marion filed an application requesting an interim increase in water and wastewater rates. Section 367.0814(4), F.S., details interim rate increases for staff-assisted rate cases. Section 367.0814(4), F.S., states:

(4) The commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

In order to establish interim rate relief as prescribed by Section 367.0814(4), F.S., we used the revenues East Marion reflected in its filing. Based on the financial data provided by East Marion, we find the Utility has demonstrated that the O&M expenses of East Marion's water system exceed its operating revenues. The difference between East Marion's revenues and our adjusted O&M expenses for its water system is \$4,130. East Marion's revenues, however, are sufficient to cover the adjusted O&M expenses for the Utility's wastewater system. Therefore, we find that East Marion has met the threshold for an interim rate increase pursuant to Section 367.0814(4), F.S., for its water system only.

In addition, the interim water increase for East Marion shall be grossed up to include regulatory assessment fees (RAFs). We have previously determined that it would be inappropriate to approve an increase in a utility's rates to cover its operating expenses and deny that same utility the funds to pay RAFs.³ Furthermore, by approving an interim rate increase that allows for the payment of RAFs, the Utility shall be able to fully cover its O&M expenses. We find that the RAFs associated with East Marion's interim water increase is calculated to be \$186 ($\$4,130 \times 4.5\%$).

In order to produce revenues sufficient to cover water O&M expenses and RAFs, we find that East Marion shall be permitted an interim water revenue increase of \$4,316 ($\$4,130 + \186). Therefore, we find that the appropriate interim revenue requirement for East Marion's water system is \$28,066, which results in an interim increase of 18.17 percent above East Marion's 2014 water revenues of \$23,750. Our interim increase calculation is set forth in Table 1 below.

³ Order No. PSC-01-1654-FOF-WS, issued August 13, 2001, in Docket No. 010396-WS, In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.

Table 1

Determination of Interim Increase		
	Water	Wastewater
1. Utility Adjusted Test Year O&M Expenses	\$27,880	\$33,083
2. Less: Commission Adjustments	<u>\$0</u>	<u>\$0</u>
3. Commission Adjusted Test Year O&M	\$27,880	\$33,083
4. Less: Utility Test Year Revenues	<u>\$23,750</u>	<u>\$35,522</u>
5. Revenues to Cover O&M Expenses	\$4,130	(\$2,439)
6. Interim Revenue Increase	\$4,130	\$0
7. RAFs on Interim Rate Increase	\$186	\$0
8. Total Interim Revenue Increase (\$)	<u>\$4,316</u>	<u>\$0</u>
9. Total Interim Revenue Increase (%)	<u>18.17%</u>	<u>0%</u>

Interim Water Rates

Interim water service rates for East Marion shall be designed to allow the Utility the opportunity to generate annual operating revenues of \$27,880 for water. Before removal of miscellaneous revenues, this would result in an increase of \$4,130 (17.39 percent) for water. To determine the appropriate increase to apply to the service rates, miscellaneous revenues shall be removed from the test year revenues. The calculation is as follows:

Table 2

Percentage Increase Less Miscellaneous Revenues	
	<u>Water</u>
1 Total Test Year Revenues	\$23,750
2 Less: Miscellaneous Revenues	<u>\$1,675</u>
3 Test Year Revenues from Service Rates	\$22,075
4 Revenue Increase	<u>\$4,130</u>
5 % Service Rate Increase (Line 4/Line 3)	18.71%

The interim rate increase of 18.71 percent for water shall be applied as an across-the-board increase to the service rates in effect as of December 31, 2014.⁴ The rates, as shown on Schedule No. 1, shall be effective for service rendered on or after the stamped approval date on

⁴ The revenue increase is based on 2014 water revenues, therefore, the percentage increase shall be applied to the rates in effect at year end 2014.

the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. East Marion shall file revised tariff sheets and a proposed customer notice to reflect our approved rates. In addition, the approved rates shall not be implemented until the required security has been filed, our staff has approved the proposed customer notice, and the notice has been received by the customers. East Marion shall provide proof of the date notice was given within 10 days of the date of the notice.

Security to Guarantee Interim Increase

Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking, subject to refund with interest at a rate ordered by the Commission. The interim increase approved for East Marion's water system is \$4,316. In accordance with Rule 25-30.360, F.A.C., we calculated the potential refund of revenues and interest collected under interim conditions to be \$2,880, based on an estimated eight months of revenue being collected under the recommended interim rates shown on Schedule No. 1 attached hereto.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Because East Marion was purchased from East Marion Sanitary Systems, Inc. in 2015,⁵ the Utility does not have a full year of financial statements. Our practice is to evaluate three years of financial statements when determining if a utility has the financial capability to support a corporate undertaking. Therefore, we shall require East Marion to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refund of water revenues.

If the security provided is an escrow account, the escrow account must be established between the Utility and an independent financial institution or the Division of Treasury for the Florida Department of Financial Services pursuant to a written escrow agreement. This Commission shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall state the following:

The account is established at the direction of the Commission to guarantee an interim rate increase; no withdrawals of funds shall occur without the prior approval of the Commission through the Commission Clerk, Office of Commission Clerk; the account shall be interest bearing; information concerning that escrow account shall be available from the institution to the Commission or its representative at all times; the amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt; and, pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla 3d DCA 1972), escrow accounts are not subject to garnishments.

⁵ Order No. PSC-15-0576-PAA-WS, issued December 21, 2015, in Docket No. 150091-WS, In re: Application for approval of transfer of Certificate Nos. 490-W and 425-S from East Marion Sanitary Systems, Inc. to East Marion Utility, LLC, in Marion County.

If the security provided is an escrow account, East Marion shall deposit \$360 into the escrow account each month. The escrow agreement shall also state that “if a refund to the customers is required, all interest earned on the escrow account shall be distributed to the customers, and if a refund to the customers is not required, the interest earned on the escrow account shall revert to the utility.”

If the security provided is a surety bond or a letter of credit, said instrument shall be in the amount of \$2,880. If East Marion chooses a surety bond as security, the surety bond shall state that it will be released or terminated only upon subsequent order of the Commission. If East Marion chooses to provide a letter of credit as security, the letter of credit shall state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered releasing the funds to the utility or requiring a refund.

Regardless of the type of security provided, East Marion shall keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), F.A.C., East Marion shall provide a report, by the 20th day of each month, indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, F.A.C.

In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. Such costs are the responsibility of, and shall be borne by, East Marion.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that East Marion Utilities, LLC is hereby authorized to collect interim revenues for its water system as indicated below:

	Adjusted Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Water	\$23,750	\$4,316	\$28,066	18.17%
Wastewater	\$35,522	\$0	\$35,522	0%

It is further,

ORDERED that an interim rate increase of 18.71 percent for water is hereby applied as an across-the-board increase to the service rates in effect as of December 31, 2014. The rates, as shown on Schedule No. 1 of this Order, shall be effective for service rendered on or after the stamped approval date on the tariff sheets. It is further,

ORDERED that East Marion Utilities, LLC shall file revised tariff sheets and a proposed customer notice to reflect the approved interim water rates. The approved rates shall not be implemented until the required security has been filed, our staff has approved the proposed customer notice, and the notice has been received by the customers. East Marion Utilities, LLC shall provide proof of the date notice was given within 10 days of the date of the notice. It is further,

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ORDERED that East Marion Utilities, LLC is hereby required to open an escrow account or secure a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, East Marion Utilities, LLC shall deposit \$360 into the escrow account each month, otherwise, the surety bond or letter of credit shall be in the amount of \$2,880. East Marion Utilities, LLC shall provide this Commission with a report, by the 20th of each month, indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and in accordance with Rule 25-30.360, F.A.C. It is further,

ORDERED that this docket shall remain open pending this Commission's final action on East Marion Utilities, LLC's requested rate increase.

By ORDER of the Florida Public Service Commission this 15th day of February, 2016.



CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

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Tallahassee, Florida 32399

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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 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 non-final in nature, may request (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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 wastewater utility. A motion for reconsideration shall be filed with the Office of Commission Clerk, in the form prescribed by Rule 25-22.0376, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So. 2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

EAST MARION SANITARY SYSTEMS, INC.			SCHEDULE NO. 1
TEST YEAR ENDED DECEMBER 31, 2014			DOCKET NO. 150257-WS
MONTHLY WATER RATES			
	RATES		COMMISSION
	AT	CURRENT	APPROVED
	12/31/2014 (1)	RATES (2)	INTERIM
<u>Residential and General Service</u>			
Base Facility Charge by Meter Size			
5/8" x 3/4"	\$9.88	\$10.05	\$11.73
3/4"	\$14.84	\$15.10	\$17.60
1"	\$24.72	\$25.15	\$29.33
1-1/2"	\$49.44	\$50.29	\$58.65
2"	\$79.11	\$80.47	\$93.84
3"	\$158.22	\$160.94	\$187.68
4"	\$247.22	\$251.47	\$293.25
6"	\$494.43	\$502.93	\$586.50
Charge per 1,000 Gallons - Residential			
0-10,000 gallons	\$2.07	\$2.11	\$2.46
Over 10,000 gallons	\$3.10	\$3.15	\$3.68
Charge per 1,000 gallons - General Service			
	\$2.42	\$2.46	\$2.87
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$16.09	\$16.38	\$19.11
6,000 Gallons	\$22.30	\$22.71	\$26.49
10,000 Gallons	\$30.58	\$31.15	\$36.33
(1) The interim rate increase was applied to the rates at 12/31/2014.			
(2) The current rates became effective October 1, 2015 as a result of a price index.			