

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
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Tallahassee, Florida 32399-0850

M E M O R A N D U M

June 25, 1992

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (LINGO, RIEGER)
DIVISION OF LEGAL SERVICES (FEIL)

RE : UTILITY: SHADY OAKS MOBILE-MODULAR ESTATES, INC.

DOCKET NO. 900025-WS
COUNTY: PASCO
CASE: STAFF-ASSISTED RATE CASE

AGENDA: JULY 7, 1992 - CONTROVERSIAL - FINAL AGENCY ACTION
PARTIES MAY PARTICIPATE

PANEL: FULL COMMISSION

CRITICAL DATES: NONE

DOCUMENT NUMBER-DATE
06787 JUN 25 1992
FPSC-RECORDS/REPORTING

CASE BACKGROUND

Shady Oaks Mobile-Modular Estates, Inc. (Shady Oaks or utility) is a Class C water and wastewater utility located in Pasco County. It is a 242 lot mobile-modular home park developed in 1971. Its service area is approximately 1 1/2 miles south of the City of Zephyrhills.

On January 10, 1990, Shady Oaks applied for the instant staff-assisted rate case. On February 8, 1991, the Commission issued as proposed agency action Order No. 24084, which approved a rate increase and required the utility to file or perform the following items:

- 1) File a request for acknowledgement of a restructure and a name change.
- 2) Bring the quality of service to a satisfactory level.
- 3) Spend at least 85% of the allowance for preventative maintenance, or submit a written schedule showing what monthly maintenance will be implemented, along with a statement of the reasons such funds were not spent for preventative maintenance.
- 4) Install meters for all its customers.
- 5) Escrow a certain portion of the monthly rates.

The utility was also authorized to charge flat rates for six months, at the end of which time the base facility charge (BFC) rate structure became effective. In this case, the BFC rates automatically became effective on October 1, 1991.

On March 1, 1991, several utility customers filed a timely protest to Order No. 24084. In their protest, the customers objected to the location of the percolation pond proposed by the utility. Because we have no jurisdiction to dictate the location of the proposed percolation pond, by Order No. 24409, issued April 22, 1991, the Commission dismissed the protest and revived Order No. 24084, making it final and effective.

On June 24, 1991, in response to a suit filed by the homeowners, Judge Lynn Tepper with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida granted an emergency temporary injunction enjoining and restraining the utility from charging or attempting to collect the new utility rates.

On July 5, 1991, Judge Wayne L. Cobb with the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, Florida issued an Order to Show Cause why Shady Oaks should not be punished for

DOCKET NO. 900025-WS
JUNE 25, 1992

contempt of Court for willfully and deliberately violating a 1983 order of the Court. The July 5, 1991 order further enjoined the utility from collecting the utility rates established by this Commission and ordered that the \$25.00 per month service maintenance fee be tendered to the Clerk of the Circuit Court. In August, both injunctions were lifted and the utility was able to begin collecting revenues. However, the homeowners' lawsuit is still pending.

On November 4, 1991, the Commission issued Order No. 25296, which determined the utility's noncompliance with Order No. 24084. Order No. 25296 reiterated Order No. 24084 by requiring the utility to:

- 1) Submit all necessary information for changing its certificated name, or revert to operating under its currently certificated name.
- 2) Immediately place in the escrow account all funds necessary to bring said account to its proper balance.
- 3) Install water meters for all its customers.
- 4) Improve the quality of service and interconnect with the Pasco County wastewater treatment system.

Because numerous customers did not pay their utility bills as a result of a court dispute over the utility's rates, Order No. 25296 allowed the utility to charge the flat rates for an additional five months. Beginning in December 1991, the utility once again began charging flat rates.

In Staff's Memorandum dated April 9, 1992, we recommended that the utility be ordered to show cause why it should not be fined for its noncompliance with Orders Nos. 24084 and 25296. In addition, Staff recommended that: 1) the utility be ordered to issue customer credits to those customers who had paid a portion of the utility's delinquent electric bill in order to have electric service restored to the utility; and 2) the utility be required to revert to the base facility/gallonage charge rate structure.

At the April 21, 1992 agenda conference, several customers of the utility addressed the Commission. These customers requested that the Commission deny Staff's recommendation that the utility revert back to the BFC rate structure. The Commission decided that it was not the appropriate time to review the utility's rate structure, so Staff withdrew the issue.

On May 14, 1992, the Commission issued two additional orders in this case. By Order No. PSC-92-0367-FOF-WS, the Commission: 1) imposed a \$2,000 fine that had been previously suspended; and 2)

DOCKET NO. 900025-WS
JUNE 25, 1992

ordered the utility to show cause why it should not be fined for each item of noncompliance with Orders Nos. 24084 and 25296. (At the utility's request, these matters have now been set for hearing.) By Order No. PSC-92-0356-FOF-WS, the Commission ordered the utility to issue customer credits to the aforementioned customers.

On June 15, 1992, Staff received notice from the utility owner that meters had been installed for all its residential customers. On June 17, 1992, Staff conducted an on-site inspection to verify that the utility had installed these meters. On the date of the inspection, the utility was also in the process of installing the remaining few meters associated with its general service customers. Because meters for all the utility's customers have now been installed, Staff believes it is appropriate to reconsider the utility's rate structure at this time.

The utility's customers have had their point of entry to protest Order No. 24084, which they exercised. However, Order No. 24409 dismissed the protest and revived Order No. 24084, making it final and effective. Therefore, it is appropriate for the Commission to implement the provisions of Order No. 24084 as final agency action.

DOCKET NO. 900025-WS
JUNE 25, 1992

ISSUE 1: Should the utility's rate structure be changed from its current flat rates to base facility and gallonage charge rates, and if so, what are the appropriate rates?

RECOMMENDATION: Yes, the utility's rate structure should be changed from its current flat rates to base facility and gallonage charge rates. The appropriate rates are the base facility and gallonage charges approved in Order No. 24084. (LINGO)

STAFF ANALYSIS: By Order No. 24084, the utility was authorized to charge flat rates for water and wastewater service of \$14.70 and \$28.28, respectively. The utility was authorized to charge these flat rates for six months, at the end of which time the base facility charge (BFC) rate structure became effective. In this case, the BFC rates automatically became effective on October 1, 1991.

As previously discussed, several utility customers filed a timely protest to Order No. 24084. However, by Order No. 24409, issued April 22, 1991, the Commission dismissed the protest and revived Order No. 24084, making it final and effective.

Pursuant to Commission Order No. 24084, the utility had begun the process of installing water meters for its customers. However, as a result of a dispute and ongoing litigation during most of 1991, the utility collected less than half of the revenues allowed in the rate case. The majority of customers withheld payment to the utility during a substantial portion of the year. Staff believes the arrearages resulting from the customers' nonpayment of utility services are in fact due and payable to the utility. Staff has conservatively calculated the arrearages to be over \$15,000. As of mid-September 1991, seven months after Order No. 24084 was issued, the utility had installed meters for only 31 out of 185 customers.

As a result of customers not paying their utility bills during the court dispute over jurisdiction to set the utility's rates, the Commission believed that the resulting revenue deficiency was a significant factor that contributed to the meters not being installed on a timely basis. Therefore, by Order No. 25296, the utility was allowed to charge the flat rates set forth in Order 24084 for an additional five months; the Commission was to review the rate structure at the expiration of that time. It was contemplated that the resulting increase in revenues associated with the flat rates (\$42.98 v. \$18.84) would further assist the utility in its efforts to comply with the meter installations requirement. Beginning in December 1991, the utility once again began charging the combined flat rate of \$42.98.

DOCKET NO. 900025-WS
JUNE 25, 1992

Staff's review of the utility's billing records indicated that by the end of 1991, the vast majority of the customers were paying the Commission-approved rates. As of the end of March 1992, the utility had installed an additional 16 meters, bringing the total number of meter installations to 47. As of mid-June 1992, the utility had installed meters for all of its remaining customers. Therefore, Staff believes now is the appropriate time to reevaluate the utility's rate structure.

The BFC is the Commission's preferred rate structure, because it is designed to provide for the equitable sharing by the rate payers of both the fixed and variable costs of providing service. The base facility charge is based upon the concept of readiness to serve all customers connected to the system. This ensures that rate payers pay their share of the fixed costs of providing service (through the base facility charge), but also pay their share of the variable costs of providing service (through the consumption or gallonage charge).

The utility's current flat rate structure creates an inequity among its customers. Beginning in May of each year, a significant number of the utility's customers go on an extended vacation and request a disconnection or vacation rate. In fact, approximately 65 customers (or 35% of the customer base) are on vacation for each of the months of May through September. The utility's current flat rate tariffs contain no provisions for a vacation rate or a minimum charge. Therefore, the vacationing customers currently do not pay their share of the fixed costs of providing service. The BFC rate structure prevents this inequity.

Therefore, Staff recommends that the utility be allowed to revert to the base facility/gallonage charge rate structure. The recommendation to revert to the BFC rate structure is consistent with the Commission's original decision in this case as discussed in Order No. 24084. The current flat rates and recommended base facility/gallonage rates are presented on the following pages:

DOCKET NO. 900025-WS
JUNE 25, 1992

MONTHLY WATER RATES

Residential and General Service

<u>Base Facility Charge</u>	<u>Current Flat Rates</u>	<u>Staff's Recommended Rates</u>
<u>Meter Sizes</u>		
5/8" x 3/4"	\$ 14.70	\$ 6.34
3/4"	14.70	9.51
1"	14.70	14.84
1 1/2"	14.70	29.01
2"	14.70	46.02
3"	14.70	91.36
4"	14.70	142.36
6"	14.70	284.05
 <u>Gallonage Charge</u>		
Per 1,000 Gallons	N/A	\$ 1.39

MONTHLY WASTEWATER RATES

Residential Service

<u>Base Facility Charge</u>	<u>Current Flat Rates</u>	<u>Staff's Recommended Rates</u>
All Meter Sizes	\$ 28.28	\$ 12.50
 <u>Gallonage Charge</u>		
Per 1,000 Gallons (6,000 Gallons Maximum)	N/A	\$ 2.63

DOCKET NO. 900025-WS
JUNE 25, 1992

General Service

<u>Base Facility Charge</u>	<u>Current Flat Rates</u>	<u>Staff's Recommended Rates</u>
<u>Meter Sizes</u>		
5/8" x 3/4"	\$ 28.28	\$ 12.50
3/4"	28.28	18.75
1"	28.28	31.08
1 1/2"	28.28	62.02
2"	28.28	99.15
3"	28.28	198.16
4"	28.28	309.55
6"	28.28	618.96
 <u>Gallonage Charge</u>		
Per 1,000 Gallons	N/A	\$ 3.15

DOCKET NO. 900025-WS
JUNE 25, 1992

ISSUE 2: If the Commission approves Staff's recommendation in Issue 1, what is the appropriate effective date of the revised rates?

RECOMMENDATION: The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The utility should submit revised tariff sheets reflecting the revised rates along with a proposed customer notice listing the new rates and explaining the reasons therefor. The revised tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate.
(LINGO)

STAFF ANALYSIS: The revised rates shall be effective for meter readings on or after thirty days from the stamped approval date on the revised tariff sheets. The utility should submit revised tariff sheets reflecting the revised rates along with a proposed customer notice listing the new rates and explaining the reasons therefor. The tariff sheets will not be approved until Staff verifies that the tariffs are consistent with the Commission's decision, and that the customer notice is adequate.

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