

Comments By The Board of Directors of The Riverhaven Village
Property Owners Association, Inc. on The Proposed Rate Increase For
RHV Utility Inc. - Florida Public Service Commission Docket No.
961220-SU

April 7, 1997

Introduction

The Board of Directors of the Riverhaven Village Property Owners Association, Inc. (POA) is making the following comments and recommendations to the Florida Public Service Commission (FPSC) in relation to Docket No. 961220-SU. The POA is providing this input to the FPSC and staff to assist in achieving a resolution to the issues involved in the proposed rate increase.

The POA wishes to assure that the interests of the owners of homes and property who are members of the Property Owners Association are represented and that the resulting rates for the collection, treatment, and disposal of wastewater are adequate to allow for proper operation of the facilities in compliance with the regulations which apply. This should not be interpreted as an endorsement of an organizational structure that is inherently more expensive and/or less effective and efficient than other possible organizational structures. The only objectives in this matter are the proper treatment of the wastewater at the lowest cost to our members and the availability of wastewater treatment services to our members who do not have them available at the present time.

RHV Utility Inc. (RHV) has a long history of failure to meet the requirements of the Florida Department Of Environmental Protection (FDEP) and comply with the regulations that apply to RHV's operations. This failure has caused damage to the environment in which our members live and degraded the quality of life for our members. The POA views these failures as indicative of a lack of commitment by the utility management and/or of an inability for the utility to behave as a good corporate citizen of the community. In either case the assurances and promises of the utility appear to be of questionable value.

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General Issues Related To Rate Increase

Quality of Service Issues

The quality of service provided by RHV has been poor in the past. The following incidents are indicative of the poor quality of service provided by the utility.

1. A branch off the gravity line on Timberlane Drive was cut during the installation of facilities by another utility during the 1970's. During failures of the pressure system, raw untreated sewage would back up and spill out onto the adjacent land. The spilling of raw sewage was reported to the utility on several occasions but no action was taken to correct the problem. In 1996, through the intervention of FDEP, the problem was corrected but the hole caused by the problem was only partially filled and remains so today.

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2. In 1996 several failures in RHV's facilities created a high probability of a raw sewage spill into residential areas. RHV could not be reached to notify them of the problem and Citrus County staff was forced to take corrective action to prevent exposure of the local residents to raw sewage. If, as we have heard, the failures were the result of vandalism, the failure of the utility to be available and capable of responding to the problem give the POA pause in contemplating possible future problems. It should be noted that when we checked recently the notification phone number was a long distance toll call.
3. The treatment plant has been a source of noxious odors. These odors have impaired the ability of residents who live in the area around the treatment plant to fully enjoy their property. The odors have also had an adverse impact on the ability of the property owners to sell their property and on the market value of their property. At the present time, the problem is not as bad as it has been but noxious odors are still present.
4. The treatment plant has been the source of noise that has an adverse effect on the area around the plant. The adverse effects include reduced ability to enjoy the area residences, reduced marketability for area property, and decreased market value for area property. There was a period of very loud noise resulting from equipment problems. This period continued for an excessive period. There is also an ongoing problem with noise at a lower level from plant equipment.

Rate Base Issues

1. The rate base would seem to include the recent costs associated with repairing the pressure line which crosses the Homosassa River. This appears to be questionable on a prudence basis. The line was not properly installed and its failure is therefore due, at least in part, to a failure by RHV management to assure that their facilities were properly installed and protected from damage and deterioration. If this is the case, all or part of the cost is the responsibility of the utility and not of the customers through rates.
2. The determination that the treatment plant was 67% used and useful does not seem to be appropriate in view of RHV's failure to satisfy FDEP that the disposal ponds are capable of handling the 64,000 GPD capacity in compliance with regulations. The treatment plant rated capacity is alleged to be 100,000 GPD so the appropriate used and useful percentage should be 64% or less. The rewarding of the utility for operating outside acceptable limits and in violation of state regulations would seem to be inappropriate. It should also be noted that the FPSC staff reports show both average and peak flows in excess of the 64,000 GPD capability found to be questionable by the FDEP.
3. The inclusion of a pro-forma adjustment of \$173,283 to Plant In Service (PIS) based on Attachment B of the Engineers Report seems to be questionable as Attachment B is not attributable to a knowledgeable person whose ability to make these estimates with a reasonable degree of precision can be verified.

4. The adjustment of \$173,283 is also subject to question as it provides only "partial" compliance with FDEP mandates. If one views the complete needs for compliance with FDEP regulations and requirements, this is only enough to meet a small portion of the FDEP requirements and must be questioned in terms of the long term viability of RHV when it must finance all the requirements. Approval of this future cost without a full view and knowledge of the other imminent financial demands facing RHV would seem to be inappropriate. These unidentified financial demands might cause failure of RHV due to inability to finance them.
5. The adjustment to Land increasing it by \$75,967 from \$10,000 to \$85,967 would seem to be questionable when the only justification provided is a prior rate case which is not readily available. A 850% increase from the value claimed by RHV in it's accounting records does not seem reasonable without strong justification.
6. The adjustment of the Plant in Service by \$740,286 from the \$180,875 claimed by RHV in their accounting records to \$1,088,326 based on a previous rate case adjustment and on unspecified additions and retirements does not seem reasonable. This is a 602% increase and does not seem reasonable without strong justification.
7. The previous items (5 & 6) use of prior rate case information without a comprehensive review (there is no evidence of one in the documentation) would seem to be appropriate if the adjustments were small and of insignificant effect. However, these adjustments are not small and their effects are significant. A comprehensive review is therefore necessary.
8. Comments in 5, 6, & 7 above also apply to the adjustment of Contributions In Aid of Constructions (CIAC).
9. Other values used in the determination of the proposed rates for RHV are affected by the preceding comments and are therefore not addressed here as comments would not be of value at this time.

Revenue

1. The revenue requirement is subject to question due to the other issues raised in this document.

Operating Expense

1. Adjustments based on unrecorded expenses would seem to be questionable. How can these be verified if they are unrecorded in the accounting records of RHV?
2. The adjustment of sludge removal expense from a test year amount of \$6,250 to \$17,850 on the basis of the new contract operator's estimate seems to be questionable. FDEP has not, to our knowledge, objected to the test year sludge disposal practices so an increase of 285% would seem to be unjustified. The rationale that plant operation was so bad that sludge disposal expenses were only 1/3

of what they should have been is interesting as it demonstrates that this material was dumped into the percolation ponds and adversely affected their operation and shortened the time to clean-out.

3. The statement contained in the report that there are no liability insurance policies in force for the utility appears to indicate bad management practices. This is particularly true for a utility of this size with few if any resources available to compensate parties injured as a result of negligence by the utility or its agents. The amount of insurance available for \$1,000, as specified by the staff would seem to be limited in both amount and coverage and therefore possibly inadequate to insure the viability of RHV in case of an adverse judgment.

Rates & Charges

1. The basis for allocation of costs between classes of service is not apparent from the reports. Have the differences between the characteristic of the wastewater from the different classes of service been considered in setting the proposed rates? Do the proposed rates fully reflect these differences?
2. The pressure line crossing the Homosassa River serves only 1 commercial customer. This line recently required large expenditures to repair it. Further large expenditures will be required to meet the requirements for a river crossing. Is it appropriate for the other classes of customers to be charged for these costs?

Opinions

The proposed rates are not appropriate and should not be implemented as proposed because of the following considerations:

1. The utility has operated in violation of the rules and regulations of the Florida Department of Environmental Protection (FDEP) for many years. The excuse given by the utility is its financial inability to accomplish the necessary work. This excuse might be valid for a six month long failure to move decisively toward accomplishing the required work, but it is not acceptable for recalcitrant behavior of the duration of the present case.

The utility was not prevented from seeking appropriate rate relief from the Florida Public Service Commission (FPSC). The utility chose to seek inadequate rate relief or not to seek increased rates to support the work required to comply with the FDEP requirements. This would seem to be a clear demonstration of the inability of the utility to manage its affairs and of its lack of commitment to operating its facilities in a manner which meets the requirements of state government and protect the environment.

The ongoing and sustained failure of the utility's officers and owners (not to be confused with the utilities contract operator) to move decisively to achieve compliance calls into question the validity of the utilities operating franchise granted by the FPSC as well as their commitment to operate the utility in an efficient manner consistent with protection of the environment. Perhaps the appropriate action by the commission is the revocation of the utility's franchise.

2. The utility has clearly deferred maintenance for a very long time. There is no doubt that the deferral of maintenance causes significant increases in the cost of operating and maintaining the facilities. The deferral of maintenance is a failure of utility management and the resulting increases in costs are not the responsibility of and should not be born by the utility customers.
3. The used and useful determinations for the plant appear to exceed the plant capacity as established by FDEP. This appears to reward the utility for violating FDEP standards. The rewarding of the utility through increased rates by one state agency (FPSC) for violating the regulations of another state agency (FDEP) does not seem to be good policy and would seem to encourage further violations.
4. The granting of increased rates to the utility based on a token effort to comply with a few of the FDEP requirements and without a comprehensive plan and agreement by the utility to achieve full compliance with FDEP requirements does not seem to be an appropriate action by FPSC.

The excuse that the utility is not financially capable is not valid in this instance as the utility has had adequate time to become financially capable of meeting the needs of the required compliance efforts and has chosen not to do so. Their failure to do so is a management failure and should not be born by the customers.

A rough estimate of the costs of achieving compliance indicates that the rate increase will exceed 170% as compared to the 43% proposed by the FPSC staff.

5. The very large adjustments made by the FPSC staff in arriving at the proposed rates seem to be unreasonable. Presumably the utility employs trained accountants who keep accurate accounts for the utility. While it is true that there are differences between regulatory accounting and standard accounting, increases of 600% or 800% do not seem appropriate.
6. The failure of the utility management to maintain adequate insurance protection is inexcusable and irresponsible. The utility does not possess adequate resources to compensate someone who is injured and obtains a judgment against them and therefore the lack of insurance assures the financial failure of the utility.
7. If the FPSC determines that increased rates are appropriate, it is believed that these rates should be pre-conditioned upon the utility promptly achieving compliance with the FDEP requirements; meeting quality of service standards, maintaining adequate insurance coverage, and being a good citizen in the community. These requirements should be enforced by penalties on the utility and its management to avoid repetition of past problems.

Summary

Because of RHV's demonstrated lack of commitment to protecting the community's environment and long history of ineffective management, it is the considered opinion of the POA Board that the Florida Public Service Commission should evaluate the future viability of RHV from both a financial and operating perspective. If RHV is not capable of performing the work necessary to treat the wastewater from its customers effectively and efficiently while consistently meeting the requirements of the FDEP, the granting of a rate increase will only delay the inevitable demise of RHV and will significantly increase the costs to the customers without corresponding benefits. If the FPSC determines that RHV's viability is questionable the Commission should act accordingly by denial of the rate increase or by minimizing the increase.