

VOTE SHEET

JANUARY 21, 2003

RE: Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

ISSUE 1: Is the quality of service provided by Sanibel Bayous Utility Corporation considered satisfactory?

RECOMMENDATION: No. The quality of the wastewater plant-in-service provided by SBUC should not be considered satisfactory. The utility should complete any and all improvements to the system that are necessary to satisfy the standards set by the Florida Department of Environmental Protection (FDEP). Also, it is recommended that a local emergency phone number, that can be easily seen, be posted at the plant and at each lift station. The emergency phone number should be posted at all locations no later than 90 days from the date of the Consummating Order for this rate case.

DEFERRED

COMMISSIONERS ASSIGNED: Full Commission

COMMISSIONERS' SIGNATURES

MAJORITY

DISSENTING

REMARKS/DISSENTING COMMENTS:

DOCUMENT NUMBER-DATE

00623 JAN 21 03

FPSC-COMMISSION CLERK

VOTE SHEET

JANUARY 21, 2003

Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

ISSUE 2: What portions of Sanibel Bayous Utility Corporation are used and useful?

RECOMMENDATION: The utility wastewater treatment plant is considered to be 67% used and useful. The wastewater collection system is considered to be 100% used and useful.

ISSUE 3: What is the appropriate test year rate base for the utility?

RECOMMENDATION: The appropriate test year rate base for the utility is (\$39,997). The utility should be required to complete all pro forma additions, as discussed in the analysis portion of staff's January 9, 2003 memorandum, within six months of the Commission's Consummating Order.

ISSUE 4: What is the appropriate rate of return on equity and the appropriate overall rate of return for this utility?

RECOMMENDATION: The appropriate rate of return on equity is 10.23% with a range of 9.23% to 11.23%. An overall rate of return should not be established for this utility at this time.

VOTE SHEET

JANUARY 21, 2003

Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

ISSUE 5: What is the appropriate test year revenue?

RECOMMENDATION: The appropriate test year revenue for this utility is \$43,560.

ISSUE 6: What is the appropriate amount of operating expense?

RECOMMENDATION: The appropriate amount of operating expense for this utility is \$54,755. The utility should be required to provide the Commission with proof of the purchase of insurance within 90 days of the Consummating Order, removal of vegetation from the pond berm, the addition of baffles in the chlorine contact chamber and the addition of new diffusers in some of the aeration tanks, as discussed in the analysis portion of staff's January 9, 2003 memorandum, within six months of the Consummating Order.

ISSUE 7: Should the Commission use the operating ratio methodology as an alternative means to calculate the revenue requirement for SBUC and, if so, what is the appropriate margin?

RECOMMENDATION: No. The Commission should not use the operating ratio methodology for calculating the revenue requirement for SBUC; staff believes that the utility should be considered ineligible for the operating ratio methodology at this time.

VOTE SHEET

JANUARY 21, 2003

Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

ISSUE 8: What is the appropriate revenue requirement?

RECOMMENDATION: The appropriate revenue requirement is \$54,755.

ISSUE 9: What are the appropriate rates, rate structure and billing cycle for the system?

RECOMMENDATION: The appropriate rate structure for this system is the flat rate structure. Customers should be billed on a quarterly basis. The recommended rates should be designed to produce revenue of \$54,299 excluding miscellaneous service charge revenue, as shown in the analysis portion of staff's memorandum. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates should not be implemented until notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

ISSUE 10: What is the appropriate amount by which rates should be reduced four years after the established effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, Florida Statutes?

RECOMMENDATION: The wastewater rates should be reduced as shown on Schedule No. 4 of staff's memorandum, to remove rate case expense grossed up for regulatory assessment fees and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. The utility should be required to file

VOTE SHEET

JANUARY 21, 2003

Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

ISSUE 11: Should the utility be authorized to collect service availability charges, and if so what are the appropriate charges?

RECOMMENDATION: No. The utility should not be authorized to collect service availability charges. The utility should cease collecting the temporary service availability charge upon issuance of the Consummating Order.

ISSUE 12: Should the utility be authorized to collect late fees, and if so what are the appropriate charges?

RECOMMENDATION: Yes. The utility should be authorized to collect a \$5.00 late fee. The utility should file revised tariff sheets which are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's

VOTE SHEET

JANUARY 21, 2003

Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

decision. If revised tariff sheets are filed and approved, the late payment charge should become effective on the stamped approval date of the revised tariff sheets, if no protest is filed and provided customers have been notified.

ISSUE 13: Should the utility be authorized to collect miscellaneous service charges, and if so, what are the appropriate charges?

RECOMMENDATION: Yes. The utility should be authorized to collect miscellaneous service charges as recommended in the analysis portion of staff's memorandum. The utility should file revised tariff sheets which are consistent with the Commission's vote within one month of the Commission's final vote. The revised tariff sheets should be approved upon staff's verification that the tariffs are consistent with the Commission's decision. If revised tariff sheets are filed and approved, the miscellaneous service charges should become effective for connections made on or after the stamped approval date of the revised tariff sheets, if no protest is filed.

ISSUE 14: Should the recommended rates be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility?

RECOMMENDATION: Yes. Pursuant to Section 367.0814(7), Florida Statutes, the recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a party other than the utility. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are

VOTE SHEET

JANUARY 21, 2003

Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed in the analysis portion of staff's memorandum. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility should file reports with the Division of the Commission Clerk and Administrative Services no later than 20 days after each monthly billing. These reports should indicate the amount of revenue collected under the increased rates subject to refund.

ISSUE 15: Should SBUC be required to make an additional refund to customers for amounts it collected in violation of Section 367.091(4), Florida Statutes, and if so, what is the amount of the additional refund?

RECOMMENDATION: Yes. SBUC should be required to make an additional refund in the amount of \$6,732 in service rates. In addition, the utility should be required to refund approximately \$750 in unauthorized late payment fees. The refunds should be made with interest in accordance with Rule 25-30.360(4), Florida Administrative Code. Further, the refunds should be made within 90 days in accordance with Rule 25-30.360(2), Florida Administrative Code. The refunds and the accrued interest should be paid only to those customers who paid the unauthorized service rates from April 2000 through September 2002 and the unauthorized late payment fees from January 2000 to the current date. Pursuant to Rule 25-30.360(7), Florida Administrative Code, the utility shall provide monthly reports on the status of the refund by the 20th of the following month. The utility should treat any unclaimed refunds in accordance with Rule 25-30.360(8), Florida Administrative Code. In no instance should maintenance and administrative costs associated with any refund be borne by the customers; the costs are the responsibility of, and should be borne by, the utility.

VOTE SHEET

JANUARY 21, 2003

Docket No. 020439-SU - Application for staff-assisted rate case in Lee County by Sanibel Bayous Utility Corporation.

Docket No. 020331-SU - Investigation into alleged improper billing by Sanibel Bayous Utility Corporation in Lee County in violation of Section 367.091(4), Florida Statutes.

(Continued from previous page)

ISSUE 16: Should Sanibel Bayous Utility Corporation be ordered to show cause, in writing within 21 days, why it should not be fined for collecting rates and charges not approved by the Commission, in apparent violation of Sections 367.081(1) and 367.091(4), Florida Statutes, and Rule 25-30.135(2), Florida Administrative Code?

RECOMMENDATION: Yes. Sanibel Bayous should be ordered to show cause, in writing within 21 days, why it should not be fined \$300 for its apparent violation of those statutes and rule. The order to show cause should incorporate the conditions stated in the staff analysis.

ISSUE 17: Should these dockets be closed?

RECOMMENDATION: No. If no timely protest is received upon expiration of the protest period, the PAA Order will become final upon the issuance of a Consummating Order. However, these dockets should remain open for an additional seven months from the Consummating Order to allow staff to verify completion of pro forma items as described in Issue Nos. 3 and 6, to verify that the utility has purchased insurance within 90 days as described in Issue No. 6, to verify that the refund has been made to SBUC customers, and to process the show cause proceeding. Once staff has verified that this work has been completed, the docket should be closed administratively.