

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in Marion County by County-Wide Utility Co., Inc.      DOCKET NO. 050862-WU  
ORDER NO. PSC-06-0336-PCO-WU  
ISSUED: April 24, 2006

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman  
J. TERRY DEASON  
ISILIO ARRIAGA  
MATTHEW M. CARTER II  
KATRINA J. TEW

ORDER GRANTING EMERGENCY RATE RELIEF SUBJECT TO REFUND

BY THE COMMISSION:

Background

County-Wide Utility Co., Inc. (County-Wide or utility) is a Class C utility located in Marion County. The utility provides water service only. Based on its 2004 Annual Report, the utility serves approximately 482 water customers. Revenues for 2004 were reported as \$109,074 for water, and the utility reported an operating income of \$947.

Due to a 1996 change in Marion County's Land Development Code to require fire flow in new developments, County-Wide hired an engineer to perform a capacity analysis and to explore alternatives to expand capacity and provide fire flow. After considering alternatives, County-Wide entered into an agreement with the City of Ocala (City) for the interconnection of its system to receive bulk water and wastewater. County-Wide has constructed an interconnection between its existing system and the City and has begun purchasing water from the City.

In its initial staff-assisted rate case filing in this docket, the utility requested interim rates. The utility's interim rates request was based on it being allowed to immediately earn a return on its major investment. By Order No. PSC-06-0063-FOF-WU, issued January 24, 2006, we denied the utility's request for interim rates. This denial was based on Section 367.0814(4), Florida Statutes, which provides that:

[t]o 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.

DOCUMENT NUMBER-DATE

03611 APR 24 06

FPSC-COMMISSION CLERK

However, because it is critical for the utility to continue payment to the City for the purchase of water, we encouraged our staff to continue to explore alternative avenues for expedited rate relief for County-Wide. On February 28, 2006, the utility filed a petition for emergency rates.

We have jurisdiction pursuant to Chapter 367, Florida Statutes, including Sections 367.011, 367.121, and 367.081, Florida Statutes.

### Emergency Rates

In its petition, the utility requested emergency rates to allow it to recover the costs of the interconnection with the City, interest on the debt financing, increased tangible and intangible taxes and purchased water from the City. The costs included in the calculation for emergency rates were a return on the new required investment and adjusted operation and maintenance (O&M) expense grossed up for the regulatory assessment fees. The total requested revenue increase for emergency rates was \$150,073 (135.00% increase).

Based on our analysis of the utility's cost justification, we have determined the appropriate emergency rate increase to be \$139,291 (127.60% increase). This differs from the utility's requested emergency rate increase due to the correction of two errors in the utility's calculation. The utility double counted the increase in tangible and intangible taxes. Therefore, we have made an adjustment to remove \$14,850 from operating expenses. The utility also removed revenue associated with its stand-by customer class. This results in a rate structure change. In requests for emergency rates, the percentage increase is across-the-board with the rate structure remaining the same.<sup>1</sup> Therefore, we have made an adjustment of \$4,552 to include the revenue of the stand-by customer class.

This Commission has granted emergency relief in certain circumstances under our general ratemaking powers. See, e.g., Order No. PSC-97-0207-FOF-SU, issued February 21, 1997, in Docket No. 961475-SU, In re: Application for limited proceeding increase in wastewater rates by Forest Hills Utilities, Inc. (granting tariff request for emergency rates and finding that although Chapter 367, Florida Statutes, does not expressly authorize emergency rates, Section 367.011, Florida Statutes, provides that this Commission has exclusive jurisdiction over a utility's rates). Moreover, pursuant to Section 367.121, Florida Statutes, our general powers include the power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each utility. In all such instances when we have granted emergency relief, we have required the utility to hold the monies collected subject to refund pending a final decision. We note that in prior cases, emergency rates were approved on the basis of purchased treatment costs and this is the first time we have considered a return on investment to be included in emergency rates. This Commission's authority to do so is inherent under our general ratemaking powers.

---

<sup>1</sup> See, e.g., Order No. PSC-00-2227-PAA-WU, issued November 21, 2000, in Docket Nos. 940109-WU and 000694-WU, In Re: Petition for interim and permanent rate increase in Franklin County by St. George Island Utility Company Ltd., and In Re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County. That Order was consummated by Order No. PSC-00-2045-CO-WU, issued December 14, 2000.

At the time of our decision denying the utility's interim rate request, we did not have the utility's 2005 financial information available. Since that time, the audit of the utility's 2005 financial information was received on February 20, 2006. The audit indicates that the utility had a net operating loss of \$12,327 for 2005. The loss the utility sustained in 2005 is only reflective of one month of increased costs from purchased water and interest on the total debt incurred for the interconnection. We believe that one of the most urgent needs in ratemaking is to provide the utility with the opportunity to generate funds for its financial and operational stability. Thus, with the increased costs for O&M expenses and the payment of interest on the debt, we believe that it is imperative not to jeopardize the viability of this utility. Therefore, we find it appropriate to include the return on the new investment in the emergency rates, as well. We note that the emergency rates will be held subject to refund and there will be a true-up in the final rates determination.

In consideration of the foregoing, we hereby approve County-Wide's request for emergency water rates as modified herein, subject to refund with interest until this Commission determines the appropriate final rates for the utility. The tariff sheets filed by County-Wide represent a 135.00% increase in rates. Based on our analysis, the emergency increase in rates is 127.60%. Therefore, the tariffs filed by County-Wide are denied. However, if the utility submits revised tariff sheets accurately reflecting our decision herein, our staff is given the administrative authority to approve the submitted tariff sheets. The approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates shall not be implemented until our staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. The utility shall provide proof of the date notice was given within 10 days after the date of the notice.

Schedule No. 1, attached to this Order and incorporated herein, reflects the utility's existing rates, the utility's proposed emergency rates and the approved emergency rates.

#### Security

The excess of emergency rates over the previously authorized rates shall be collected subject to refund with interest. Although an estimated amount for a potential refund may be calculated, due to the change in monthly customer bills, we are unable to calculate an accurate amount for a potential refund. Therefore, the utility shall deposit in an escrow account each month the difference in revenue between the emergency rates and the previously approved rates. In addition, the escrow agreement shall allow for automatic withdrawals each month by the utility for payments to the City for purchased water and for payment of interest on the debt incurred in order to construct the facilities necessary for the interconnection. Under no circumstances shall the utility withdraw any amount of money except for payments to the City for purchased water and to Compass Bank for payment of interest.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report to this Commission's Division of Economic Regulation by the 20th day of each month

indicating in detail the total amount collected from its water customers, the additional revenue collected through the emergency rates, and the amount of the withdrawals to the City and to Compass Bank, all on a monthly and total basis. The utility shall also provide copies of invoices from the City and payment coupons for the loan.

The escrow agreement shall be established between the utility and an independent financial institution pursuant to a written escrow agreement. The written escrow agreement shall state the following: that the account is established at the direction of this Commission for the purposes set forth above; that monthly automatic withdrawals of funds shall be allowed for payments to the City of Ocala for purchased water and for payment of interest on the debt incurred in order to construct the facilities necessary for the interconnection; that no other funds in the escrow account may be withdrawn by the utility without the express approval of the Commission; that the account shall be interest bearing; that the Director of the Commission Clerk and Administrative Services must be a signatory to the escrow agreement; that all information concerning the escrow account shall be available to a Commission representative at all times; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.

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

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that County-Wide Utility Co., Inc.'s request for emergency rate relief is hereby approved, subject to refund with interest, to the extent set forth in the body of this Order. It is further

ORDERED that the proposed tariff sheets filed by County-Wide Utility Co., Inc. are hereby denied. If the utility submits revised tariff sheets accurately reflecting our decision made herein, our staff is given the administrative authority to approve the submitted tariffs. It is further

ORDERED that the approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the customers have received notice. The rates shall not be implemented until our staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. It is further

ORDERED that County-Wide Utility Co., Inc. shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that Schedule No. 1, attached to this Order, is incorporated herein by reference. It is further

ORDERED that the excess of emergency rates over the previously authorized rates shall be collected subject to refund with interest. County-Wide Utility Co., Inc. shall deposit in an escrow account each month the difference in revenue between the emergency rates and the previously approved rates. The escrow agreement shall allow for automatic withdrawals each month by the utility for payments to the City of Ocala for purchased water and for payment of interest on the debt incurred in order to construct the facilities necessary for the interconnection. Under no circumstances shall the utility withdraw any amount of money except for payments to the City of Ocala for purchased water and to Compass Bank for payment of interest. It is further

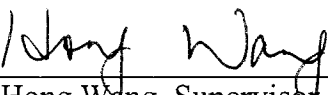
ORDERED that pursuant to Rule 25-30.360(6), Florida Administrative Code, County-Wide Utility Co., Inc. shall provide a report to this Commission's Division of Economic Regulation by the 20th day of each month indicating in detail the total amount collected from its water customers, the additional revenue collected through the emergency rates, and the amount of the withdrawals to the City of Ocala and to Compass Bank, all on a monthly and total basis. The utility shall also provide copies of invoices from the City of Ocala and payment coupons for the loan. It is further

ORDERED that as security for any potential refund, an escrow agreement shall be established between County-Wide Utility Co., Inc. and an independent financial institution pursuant to the terms and conditions set forth within the body of this Order. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 24th day of April, 2006.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By:   
\_\_\_\_\_  
Hong Wang, Supervisor  
Case Management Review Section

( S E A L )

RG

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.

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate 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 Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

Schedule No. 1

	<u>Rates Prior To Filing</u>	<u>Utility's Proposed Emergency Rates</u>	<u>Commission Approved Emergency Rates</u>
<b><u>Residential</u></b>			
Base Facility Charge			
Flat Charge (0 - 22,500)	\$13.23	\$34.83	\$30.11
Gallorage Charge (per 1,000 gals)			
3,751 Gals. - 22,500 Gals.	\$1.89	\$3.12	\$4.30
Over 22,500 Gallons	\$1.02	\$1.69	\$2.32
<b><u>General Service</u></b>			
5/8" x 3/4" Meter	\$13.23	\$34.83	\$30.11
Gallorage Charge (per 1,000 gals)			
3,751 Gals. - 22,500 Gals.	\$1.89	\$3.12	\$4.30
Over 22,500 Gallons	\$1.02	\$1.69	\$2.32
1" Meter	\$33.05	\$86.92	\$75.22
9,400 Gals. - 46,800 Gals.	\$1.89	\$3.12	\$4.30
Over 46,800 Gallons	\$1.02	\$1.69	\$2.32
1-1/2" Meter	\$66.10	\$86.92	\$150.44
18,800 Gals. - 93,600 Gals.	\$1.89	\$3.12	\$4.30
Over 93,600 Gallons	\$1.02	\$1.69	\$2.32
<b><u>Standby Service</u></b>	\$3.00	\$0	\$6.83