

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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COMMISSION
CLERK

-M-E-M-O-R-A-N-D-U-M-

DATE: July 6, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Division of Economic Regulation (Hudson, Rendell) *SH*
Office of the General Counsel (Jaeger) *[Signature]* *[Signature]*

RE: Docket No. 060406-SU – Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company.

AGENDA: 07/18/06 – Regular Agenda – Decision on Interim Rates – Participation is at the discretion of the Commission

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Tew

CRITICAL DATES: 07/18/06 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\060406.RCM.DOC

Case Background

Crooked Lake Park Sewerage Company (Crooked Lake or the utility) is a Class C wastewater utility serving 423 wastewater customers in Polk County. According to the utility's 2005 Annual Report, total gross revenue was \$104,313 and total operating expenses were \$167,266. The utility previously filed for a staff-assisted rate case (SARC) on September 6, 2005. However, due to the health of the utility owner, the utility's books and records had not been updated through the end of the test year. By Order No. PSC-06-0337-PAA-SU, issued April 24, 2006, in Docket No. 050586-SU, In re: Application for staff-assisted rate case in Polk County by Crooked Lake Park Sewerage Company, the docket was closed. The order also indicated that once the utility owner is prepared to assist staff with the processing of subsequent rate case requests, he may resubmit an application for a new staff assisted rate case.

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In the instant docket, the utility has filed for another staff-assisted rate case. The application was received by the Commission on May 19, 2006. Along with its request for a SARC, the utility has requested interim rates.

This recommendation addresses the utility's request for interim rates. The Commission has the authority to consider this rate case and interim rates under Section 367.0814, Florida Statutes.

Discussion of Issues

Issue 1: Should the Crooked Lake's request for interim rates be approved?

Recommendation: Yes, Crooked Lake's request for interim rates should be approved. The utility should be granted a 50.18% interim rate increase. If the utility submits revised tariffs reflecting the Commission's decision on interim rates, staff recommends it be given administrative authority to approve the submitted tariffs. The approved rates should 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 customers have received notice. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision, the proposed customer notice is adequate, and the required security has been filed. The utility should provide proof of the date notice was given within 10 days after the date of the notice. (Hudson)

Staff Analysis: As stated in the case background, on May 19, 2006, the Commission received an application for a staff-assisted rate case from Crooked Lake. In its application, the utility also requested interim rates. Section 367.0814(4), Florida Statutes, 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.

Staff has reviewed the utility's operation and maintenance (O & M) expenses in relation to its revenues. Based on the utility's 2005 Annual Report and SARC filing, staff has determined that the utility's operation and maintenance expenses exceed its revenues.

The utility recorded \$149,606 for O & M expenses in its 2005 annual report. Staff has analyzed O & M expenses reported on the 2005 annual report, compared them to expenses the Commission has allowed in past cases for like-sized utilities, and found them to be reasonable. By Order No. PSC-04-1264-PAA-SU, issued December 21, 2004, in Docket No. 040300-SU, In re: Application for staff-assisted rate case in Volusia County by Tymber Creek Utilities, Tymber Creek had 415 customers and the Commission approved O & M expenses of \$148,384. Therefore, the utility should be allowed an interim revenue increase that will cover the cost of its O & M expenses of \$149,606. The interim increase should be grossed up to include regulatory assessment fees (RAFs) as well. By 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., the Commission found that it would be inappropriate to approve an increase in a utility's rates to cover operating expenses, and deny that same utility the funds to pay RAFs. Further, by allowing for an interim rate that allows for the payment of RAFs, the utility will be able to cover its O & M expenses. The RAFs for interim are \$7,050.

Based on the above, Crooked Lake's interim rates should produce revenues of \$156,656 (\$149,606 + \$7,050) to cover its O & M expenses and RAFs. This is a 50.18% increase above

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the utility's 2005 revenues of \$104,313. It is Commission practice to apply the interim percentage increase to existing rates. If the utility submits revised tariffs reflecting the Commission's decision on interim rates, staff recommends it be given administrative authority to approve the submitted tariffs. The approved rates should 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 customers have received notice. The rates should not be implemented until staff verifies that the tariff sheets are consistent with the Commission decision, the proposed customer notice is adequate, and the required security has been filed. The utility should provide proof of the date notice was given within 10 days after the date of the notice.

Staff's recommended interim rates are shown on Schedule No. 1.

Issue 2: What is the appropriate security to guarantee the interim rate increase?

Recommendation: The utility should be required to file a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of revenues collected under interim conditions. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. (Hudson)

Staff Analysis: In order to protect the customers in event that the final rates are less than those authorized as a result of the interim increase, it is recommended that the utility provide security by placing in escrow the difference in revenues between the interim rates and the previously authorized rates, or by providing a bond or letter of credit. Staff has calculated the percentage amount of potential refunds associated with the interim revenue increase to be 33.39% of interim rate revenue for wastewater. Staff has calculated the amount pursuant to Section 367.0814(5), Florida Statutes, which specifies that,

The Commission may require that the difference between the interim rates and the previously authorized rates be collected under a bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission.

If the security provided is an escrow account, said account should be established between the utility and an independent financial institution pursuant to a written escrow agreement. The Commission should be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement should state the following: That the account is established at the direction of this Commission for the purpose set forth above, that no withdrawals of funds should occur without the prior approval of the Commission through the Director of the Division of Commission Clerk and Administrative Services, that the account should be interest bearing, that information concerning the escrow account should be available from the institution to the Commission or its 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.

The utility should deposit the funds to be escrowed, 33.39% of interim rate revenue, into the escrow account each month, pending the completion of the rate case proceeding. If a refund to the customers is required, all interest earned by the escrow account should be distributed to the customers. If a refund to the customers is not required, the interest earned by the escrow account should revert to the utility.

If the security provided is a bond or a letter of credit, said instrument should be in the amount of \$21,797. If the utility chooses a bond as security, the bond should state that it will be released or should terminate upon subsequent order of the Commission addressing the requirement of a refund. If the utility chooses to provide a letter of credit as security, the letter of credit should 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 addressing the requirement of a refund.

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Irrespective of the type of security provided, the utility should keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility should provide 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 should be with interest and undertaken in accordance with Rule 25-30.360, 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.

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Issue 3: Should this docket be closed?

Recommendation: No. This docket should remain open to process the utility's staff-assisted rate case. (Jaeger)

Staff Analysis: This docket should remain open pending the final resolution of the utility's staff-assisted rate case.

Schedule No. 1

MONTHLY WASTEWATER RATES

	UTILITY'S EXISTING RATES	STAFF RECOMMENDED INTERIM RATES
<u>Residential</u>		
All Meter Sizes	\$11.10	\$16.67
<u>General Service</u>		
<u>Base Facility Charge by Meter Size:</u>		
5/8"X3/4"	\$11.10	\$16.67
3/4"	\$16.65	\$25.00
1"	\$27.75	\$41.67
1-1/2"	\$55.49	\$83.33
2"	\$88.79	\$133.34
3"	\$177.57	\$266.67
4"	\$277.46	\$416.69
6"	\$554.94	\$833.41
<u>Residential Service Gallonage Charge</u>		
Per 1,000 gallons (8,000 gals. Max)	\$2.56	\$3.84
<u>General Service Gallonage Charge</u>		
Per 1,000 Gallons	\$3.07	\$4.61
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>		
3,000 Gallons	\$18.78	\$28.20
5,000 Gallons	\$23.90	\$35.89
8,000 Gallons	\$31.58	\$47.43