

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in water and
wastewater rates in Highlands County by Lake
Placid Utilities, Inc.

DOCKET NO. 060260-WS
ORDER NO. PSC-07-0528-AS-WS
ISSUED: June 26, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

ORDER APPROVING SETTLEMENT AGREEMENT

BY THE COMMISSION:

BACKGROUND

Lake Placid Utilities, Inc. (Lake Placid or utility), is a Class C utility providing water and wastewater service to approximately 125 water and 194 wastewater customers in Highlands County. According to its 2005 annual report, Lake Placid reported revenues of \$45,173 and \$70,362 for water and wastewater, respectively. Lake Placid reported a net operating income of \$29,387 for water and a net operating loss of \$14,944 for wastewater. Water and wastewater rates were last established for this utility in its 1995 rate proceeding.¹

On May 15, 2006, Lake Placid filed the Application for Rate Increase at issue in the instant. By Order No. PSC-06-0662-FOF-WS, issued August 7, 2006, we denied Lake Placid's request for a wastewater interim revenue increase. By Order No. PSC-07-0287-PAA-WS ("PAA Order"), issued April 3, 2007, we approved rates that were designed to generate a water revenue requirement of \$56,579 and a wastewater revenue requirement of \$90,637.

On April 24, 2007, the Office of Public Counsel (OPC) timely filed a protest of the PAA Order. On May 4, 2007, Lake Placid and OPC (collectively, "Parties") filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Joint Motion). The motion and settlement agreement are attached to this order as Attachment A and incorporated herein by reference.

We have jurisdiction pursuant to Sections 367.081 and 367.121, Florida Statutes.

¹ See Order No. PSC-96-0910-FOF-WS, issued July 15, 1996, in Docket No. 951027-WS, In re: Application for rate increase in Highlands County by Utilities, Inc.

DOCUMENT NUMBER-DATE

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APPROVAL OF SETTLEMENT AGREEMENT

In the Settlement Agreement, the Parties have agreed that the PAA Order should be amended to eliminate the language relating to the determination of the used and usefulness of Lake Placid's water treatment plant, in order for the PAA Order to have no precedential value as to determining the used and usefulness of the water treatment plant. We have previously approved a proposed settlement where the language regarding a used and useful calculation was stricken from a proposed agency action order.² The PAA Order, which the Parties seek to strike, can be stricken because each rate case is decided on its own merits.

Notwithstanding the above amendment, the Parties have stipulated to the water and wastewater revenue requirements set forth in the PAA Order. Further, the Parties agree that the stipulated revenue requirement shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue in any subsequent proceeding.

We find that the Parties' Settlement Agreement is a reasonable resolution because it addresses all protested issues. Further, it is in the public interest for us to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time and expense of a hearing. In keeping with our long-standing practice of encouraging parties to settle contested proceedings whenever possible,³ we hereby approve the Parties' Settlement Agreement.

The utility shall file a proposed customer notice and revised tariff sheets by June 20, 2007, which are consistent with our decision. The approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after our staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The utility shall provide proof that the customers have received notice within 10 days after the date of the notice.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Joint Motion and Settlement Agreement is hereby approved. It is further

ORDERED that the utility shall file a proposed customer notice and revised tariff sheets by June 20, 2007, which are consistent with our decision. It is further

² Order No. PSC-06-0665-S-WS, issued August 7, 2006, in Docket No. 050281-WS, In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

³ Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.; Order No. PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, In re: Settlement offer for possible overearnings in Marion County by BFF Corp.; and Order No. PSC-00-0374-S-EI, issued February 22, 2000, in Docket No. 990037-EI, In re: Petition of Tampa Electric Company to close Rate Schedules IS-3 and IST-3, and approve new Rate Schedules GSLM-2 and GSLM-3.

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), Florida Administrative Code, after our staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. It is further

ORDERED that Lake Placid Utilities, Inc. shall provide proof that the customers have received notice within 10 days after the date of the notice. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 26th day of June, 2007.



ANN COLE
Commission Clerk

(S E A L)

KEF

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.

Any party adversely affected by the Commission's final action in this matter may request:
1) reconsideration of the decision by filing a motion for reconsideration with the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an

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electric, gas or telephone utility or the First District Court of Appeal in the case of a water and/or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of
LAKE PLACID UTILITIES, INC.
for an increase in wastewater
rates in Highlands County, Florida

DOCKET NO. 060260-WS

ORIGINAL

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COMMISSION
CLERK

JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT

LAKE PLACID UTILITIES, INC. ("Lake Placid" or "Utility"), and the OFFICE OF
PUBLIC COUNSEL ("OPC") file this Joint Motion requesting the Florida Public Service
Commission ("Commission") to approve the attached Settlement Agreement. In support of
this Joint Motion, Lake Placid and OPC state:

1. Lake Placid and OPC have entered into a Settlement Agreement resolving
OPC's Petition on Proposed Agency Action Order No. PSC-07-0287-PAA-WS, in accordance
with the terms of the Settlement Agreement. A copy of the Settlement Agreement is
attached hereto as Exhibit "A".

2. Lake Placid and OPC have entered into the Settlement Agreement to avoid
the time, expense and uncertainty associated with adversarial litigation, in keeping with the
CMP _____ Commission's long-standing policy and practice of encouraging parties in protested
COM _____ proceedings to settle issues whenever possible. For these reasons, Lake Placid and OPC
CTR _____
EDR _____
GCL 2 request the Commission to expeditiously issue a Final Order approving the Settlement
OPC _____ Agreement without modification and close Docket No. 060260-WS.

RCA _____
SCR _____
SGA _____
SEC _____
OTH _____

3. Pending Commission consideration of the Settlement Agreement, Lake Placid

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R.V.D.

DOCUMENT NUMBER-DATE

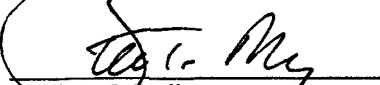
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FPSC-COMMISSION CLERK

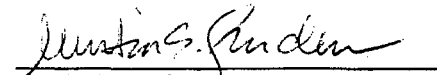
and OPC request the Commission to suspend discovery and all events currently scheduled in the CASR for this Docket until such time as the Commission acts on this Motion.

WHEREFORE, LAKE PLACID UTILITIES, INC., and OFFICE OF PUBLIC COUNSEL respectfully request the Commission to approve without modification the attached Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a Final Order is issued closing this docket.

Respectfully submitted this ^{4th}4 day of May, 2007.


Stephen C. Reilly
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Room 812
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Attorney for Citizens of the State of Florida


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Attorney for Lake Placid Utilities, Inc.

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application of)
LAKE PLACID UTILITIES, INC.)
For an increase in wastewater)
rates in Highland County, Florida)

DOCKET NO. 060260-WS

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COMMISSION
CLERK

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 4th day of May, 2007, by and between Lake Placid Utilities, Inc. ("Lake Placid" or "Utility"), and the Office of Public Counsel, on behalf of the customers of Lake Placid ("Citizens").

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") issued Proposed Agency Action Order No. PSC-07-0287-PAA-WA in this docket on April 3, 2007, ("PAA Order"); and

WHEREAS, on April 24,, 2007, Citizens filed a timely protest to the PAA Order; and

CMP _____ WHEREAS, in order to avoid the time, expense and uncertainty associated with
COM _____ adversarial litigation, and in keeping with the Commission's long-standing policy and
CTR _____ practice of encouraging parties in protested proceedings to settle issues whenever
ECR _____ possible, the Citizens and Lake Placid hereby enter into this Agreement to settle this case
GCL 2 _____ in accordance with the terms and conditions contained herein.
OPC _____
RCA _____

SCR _____ NOW, THEREFORE, for and in consideration of the mutual covenants set forth
SGA _____ below, the Citizens and Lake Placid agree as follows:
SEC _____
OTH _____

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DOCUMENT NUMBER-DATE

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1. The PAA Order shall be amended to eliminate the language relating to the determination of the used and usefulness of Lake Placid's water treatment plant. It is the intent of Lake Placid and Citizens that the PAA shall have no precedential value as to determining the used and usefulness of the water plant. Notwithstanding this amendment to the PAA Order, the parties stipulate to the revenue requirement as set forth in the PAA Order. Further, approval by Lake Placid and the Citizens of the above stipulated revenue requirements shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue that might be in controversy in any subsequent proceeding.

2. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.


3. Lake Placid and the Citizens expressly agree that all activity relating to this docket should be suspended until the Commission disposes of the Joint Motion Requesting Commission Approval of Settlement Agreement.

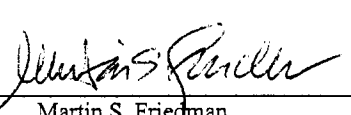
4. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving this Settlement, the Citizens Petition on Proposed Agency Action shall be deemed resolved, in accordance with the terms of this Settlement Agreement.

5. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures, and personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

OFFICE OF PUBLIC COUNSEL

LAKE PLACID UTILITIES, INC.

By: 
Stephen C. Reilly
Associate Public Counsel
On behalf of the Customers
of Lake Placid Utilities, Inc.

By: 
Martin S. Friedman
Attorney for Utilities, Inc. of
Pennbrooke