

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

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

DATE: August 21, 2008

TO: Office of Commission Clerk (Cole)

FROM: Division of Economic Regulation (Deason, Bulciza-Banks, Fletcher, Bruce, Lingo, Stallcup) *DL* *CB* *BF* *dB*
Office of the General Counsel (Hartman) *JSB* *JJA* *WBS*

RE: Docket No. 070601-WU – Application for staff-assisted rate case in Pasco County by Orangeland Water Supply.

AGENDA: 09/4/08 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: McMurrian, Argenziano, Skop

PREHEARING OFFICER: Skop

CRITICAL DATES: 2/14/09 (15-Month Effective Date (SARC))

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\ECR\WP\070601.RCM.DOC

RECEIVED-FPSC
08 AUG 21 AM 11:39
COMMISSION
CLERK

Case Background

Orangeland Water Supply (Orangeland or Utility) is a Class C water utility located in Pasco County serving approximately 76 water customers. Orangeland is located in the Northern Tampa Bay Water Use Caution Area of the Southwest Florida Water Management District (SWFWMD or District). The entire District has been under a phase II severe water shortage order since January 2007. The Utility's 2006 annual report reflects operating water revenues of \$6,214 and an operating loss of (\$3,930).

DOCUMENT NUMBER-DATE

07518 AUG 21 08

FPSC-COMMISSION CLERK

Orangeland has been under Commission jurisdiction since July 11, 1972, when Pasco County transferred jurisdiction to the Commission.¹ In 1977, the Utility was granted certificate No. 179-W to operate a water utility in Pasco County.² On September 17, 2007, Orangeland applied for a staff-assisted rate case (SARC). Prior to applying for a SARC, the Utility had not previously filed for a rate increase with the Commission.

May 13, 2008, the Commission issued Proposed Agency Action Order No. PSC-08-0309-PAA-WU (PAA Order), whereby the Commission approved a \$21,023 (or 370.92%) water increase.

On June 3, 2008, the Office of Public Counsel (OPC) filed a timely protest of the Commission's PAA Order. In its filing, OPC protested the repression adjustment of the PAA Order. As a result of the protest, the Commission scheduled a hearing to be held in the Utility's service area, and issued an Order Establishing Procedure on July 16, 2008.

Subsequently, on July 31, 2008, Orangeland and OPC (collectively, "Parties") filed a joint motion, requesting the Commission approve the attached settlement (Settlement Agreement). In the joint motion, the Parties requested that discovery and all events be suspended pending Commission consideration of the Settlement Agreement.

On August 19, 2008, the Parties filed an Amended Settlement Agreement in order to correct minor errors contained in the Settlement Agreement filed July 31, 2008, and to reflect the appropriate rates agreed upon by the Parties. A copy of the Amended Settlement Agreement is attached hereto as Attachment A.

Staff's recommendation addresses the Amended Settlement Agreement submitted by the Parties. The Commission has jurisdiction pursuant to Section 367.0814, Florida Statutes (F.S.).

¹ See Order No. 5488, issued July 21, 1972, in Docket No. 5818-WS, In re: Jurisdictional Resolutions from Boards of County Commissioners adopting the Water and Sewer System Regulatory Law, Chapter 71-278, Laws of Florida, (Chapter 367, Florida Statutes).

² See Order No. 7790, issued April 28, 1977, in Docket No. 760763-W, In re: Application of ORANGELAND WATER SUPPLY for a certificate to operate a water utility in Pasco County, Florida, pursuant to Section 367.171, Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission approve the Amended Settlement Agreement in its entirety?

Recommendation: Yes. The Amended Settlement Agreement should be approved. The Utility should file a proposed customer notice and revised tariff sheets within 15 days of the Commission vote, which is consistent with the Commission’s decision. The approved rates should 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 (F.A.C.), after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice. (Deason, Bruce, Lingo, Stallcup)

Staff Analysis: As stated in the Case Background, OPC originally protested the repression adjustment and later entered into an Amended Settlement Agreement with Orangeland. In the Amended Settlement Agreement, the Parties agreed to a stipulated repression adjustment which would result in the rates shown on Exhibit A of the Amended Settlement Agreement. The Amended Settlement Agreement, with its Exhibit A, is attached as Attachment A. Below is a summary of Orangeland’s current PAA and proposed stipulated rates:

| | UTILITY'S* EXISTING RATES | PAA RATES | PROPOSED STIPULATED RATES |
|---|--|----------------------|--|
| <u>General and Residential Service</u> | | | |
| <u>Base Facility Charge by Meter</u> | | | |
| <u>Size:</u> | | | |
| 5/8"X3/4" | \$5.00* | \$14.36 | \$14.86 |
| 3/4" | \$0.00 | \$21.54 | \$22.29 |
| 1" | \$0.00 | \$35.90 | \$37.15 |
| 1-1/2" | \$0.00 | \$71.80 | \$74.30 |
| 2" | \$0.00 | \$114.88 | \$118.88 |
| 3" | \$0.00 | \$229.76 | \$237.76 |
| 4" | \$0.00 | \$359.00 | \$371.50 |
| 6" | \$0.00 | \$718.00 | \$743.00 |
| * Existing rates include 5,000 gallons in the Base Facility Charge for. | | | |
| <u>General and Residential Gallonage Charge</u> | | | |
| Per 0 - 5,000 gallons | \$0.00 | \$4.29 | \$2.14 |
| Per 1,000 gallons over 5,000 | \$0.25 | \$5.36 | \$3.16 |
| <u>Typical Residential 5/8" x 3/4"</u> | | | |
| <u>Meter Bill Comparison</u> | | | |
| 3,000 Gallons | \$5.00 | \$27.23 | \$21.28 |
| 5,000 Gallons | \$5.00 | \$35.81 | \$25.56 |
| 10,000 Gallons | \$6.25 | \$62.61 | \$41.36 |

Staff has reviewed the rates contained in Exhibit A of the Amended Settlement Agreement. Staff notes that the stipulated base facility charges are greater than the previously-approved PAA base facility charges. However, the stipulated gallonage charges are substantially lower than the previously-approved PAA gallonage charges. On a combined basis, the stipulated rates are well below the previously-approved PAA rates. Because of the five-fold increase in revenue requirements in this case, staff is concerned that the rates contained in Exhibit A will not allow the Utility a fair opportunity to earn revenues sufficient to recover their revenue requirement. While staff realizes that rates agreed to by the Parties have traditionally been approved by the Commission, staff remains concerned that rates such as those contained in Exhibit A may prove problematic for the Utility. However, the revised rates would not appear to impair the ability of the Utility to provide satisfactory quality of service. Additionally, any further litigation may cause a substantial increase in rate case expense which would further burden customers with higher rates.

In their joint motion the Parties contend, and staff agrees, that the Amended Settlement Agreement is a reasonable resolution because it addresses the protested issue. Further, the Parties and staff believe that it is in the public interest for the Commission to approve the Amended Settlement Agreement because it promotes administrative efficiency and avoids the time and expense of a hearing. In keeping with the Commission's long-standing practice of encouraging parties to settle contested proceedings whenever possible,³ staff recommends that the Commission approve the Parties' Amended Settlement Agreement.

The Utility should file a proposed customer notice and revised tariff sheets within 15 days of the Commission vote, which is consistent with the Commission's decision. The approved rates should be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. The Utility should provide proof that the customers have received notice within 10 days after the date of the notice.

³ See 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.

Docket No. 070601-WU

Date: August 21, 2008

Issue 2: Should this docket be closed?

Recommendation: No. The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices within 15 days of the Commission vote, the utility has sent the notices to its customers, and staff has received proof that the customers have received notice within 10 days after the date of the notice. Once staff has verified all of the above actions are complete, this docket should be closed administratively. (Hartman, Deason)

Staff Analysis: The docket should remain open until a final order has been issued, staff has approved the revised tariffs sheets and customer notices within 15 days of the Commission vote, the utility has sent the notices to its customers, and staff has received proof that the customers have received notice within 10 days after the date of the notice. Once staff has verified all of the above actions are complete, this docket should be closed administratively.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in
Pasco County by Orangeland Water Supply.

Docket No. 070601-WU

**JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT**


Orangeland Water Supply ("Orangeland," "Utility" or "Company"), and the Office of Public Counsel ("OPC" or "Citizens") file this Joint Motion requesting the Florida Public Service Commission ("Commission") to approve the attached Settlement Agreement. In support of this Joint Motion, Orangeland and OPC state:

1. Orangeland and OPC have entered into a Settlement Agreement resolving OPC's Petition on Proposed Agency Action Order No. PSC-08-0309-PAA-WU, in accordance with the terms of the Settlement Agreement. A copy of the Settlement Agreement is attached hereto as Exhibit "A".
2. Orangeland and OPC have entered into the Settlement Agreement to avoid the time, expense and uncertainty associated with adversarial litigation, in keeping with the Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible. For these reasons, Orangeland and OPC request the Commission to expeditiously issue a Final Order approving the Settlement Agreement without modification and close Docket No. 070601-WU.
3. Pending Commission consideration of the Settlement Agreement, Orangeland and OPC request the Commission to suspend discovery and all events currently scheduled in the CASR for

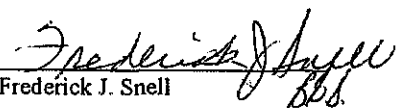
this Docket until such time as the Commission acts on this Motion.

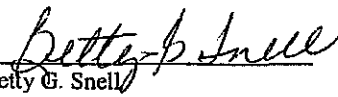
WHEREFORE, Orangeland Water Supply, and office of public counsel respectfully request the Commission to approve without modification the attached Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a Final Order is issued approving the Settlement Agreement and closing this docket.

Respectfully submitted this 19th day of August, 2008.

By: 
Stephen C. Reilly
Associate Public Counsel
Office of Public Counsel
c/o of The Florida Legislature
111 W. Madison Street, Room 812
Tallahassee, Florida 32399-1400
Phone: (850) 488-9330

Attorney for Citizens of the State of Florida

By: 
Frederick J. Snell

By: 
Betty G. Snell
Orangeland Water Supply
2109 Overview Drive
Newport Richey, Florida 34655-4131
Phone: (727) 372-8330
Co-Owners of Orangeland Water Supply

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in
Pasco County by Orangeland Water Supply.

Docket No. 070601-WU

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this ____ day of August, 2008, by and between Orangeland Water Supply ("Orangeland," "Utility" or "Company"), and the Office of Public Counsel ("OPC" or "Citizens") on behalf of the customers of Orangeland.

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") issued Proposed Agency Action Order No. PSC-08-0309-PAA-WU in this docket on May 13, 2008 ("PAA Order"); and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial litigation, and in keeping with the Commission's long-standing policy and practice of encouraging parties in protested proceedings to settle issues whenever possible, the Citizens and Orangeland hereby enter into this Agreement to settle this case in accordance with the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the Citizens and Orangeland agree as follows:

1. The PAA Order shall be amended as follows:

-3-

Exhibit "A"

- a. The third paragraph under the heading "REPRESSION ADJUSTMENT," shall be deleted and replaced with the sentence: Orangeland and OPC agree that after application of a stipulated repression adjustment the rates approved by this PAA Order shall be as provided in the Section titled "MONTHLY RATES."
- b. The first paragraph and the first sentence of the second paragraph under the heading "MONTHLY RATES" shall be deleted and replaced with the following sentence: The appropriate post-repression final rates approved by this PAA Order shall be as provided in Schedule No. 4, attached hereto.
- c. Schedule No. 4 shall be deleted and replaced with new schedule No. 4, which has been agreed to by Orangeland and OPC. See Exhibit "A", attached hereto, which provides the new stipulated Schedule No. 4

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.

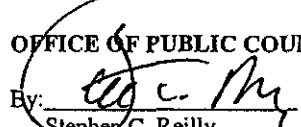
3. Orangeland and the Citizens expressly agree that all activity relating to this docket should be suspended until the Commission disposes of the Joint Motion Requesting Commission Approval of Settlement Agreement.

3. Orangeland 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.

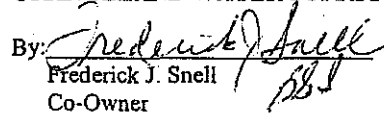
4. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving this Settlement Agreement, the Citizens' Petition on Proposed Agency Action shall be deemed resolved, in accordance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

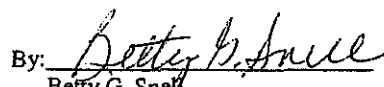
5. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures, and personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

OFFICE OF PUBLIC COUNSEL

By: 
Stephen C. Reilly
Associate Public Counsel
On behalf of the Customers
of Orangeland Water Supply

ORANGELAND WATER SUPPLY

By: 
Frederick J. Snell
Co-Owner

By: 
Betty G. Snell
Co-Owner

ORANGELAND WATER SUPPLY
 TEST YEAR ENDING 6/30/07
 MONTHLY WATER RATES

SCHEDULE NO. 4
 DOCKET NO. 070601-WU

| | UTILITY'S EXISTING RATES | STIPULATED RATES | MONTHLY RATE REDUCTION |
|--|--------------------------------|---------------------|------------------------------|
|--|--------------------------------|---------------------|------------------------------|

Residential and General Service

Base Facility Charge by Meter Size:

| | | | |
|-----------|----------|----------|--------|
| 5/8"X3/4" | \$5.00 * | \$14.86 | \$0.16 |
| 3/4" | \$0.00 | \$22.29 | \$0.24 |
| 1" | \$0.00 | \$37.15 | \$0.40 |
| 1-1/2" | \$0.00 | \$74.30 | \$0.79 |
| 2" | \$0.00 | \$118.88 | \$1.26 |
| 3" | \$0.00 | \$237.76 | \$2.53 |
| 4" | \$0.00 | \$371.50 | \$3.95 |
| 6" | \$0.00 | \$743.00 | \$7.91 |

* Existing rates included 5,000 gallons in the Base Facility Charge.

Residential and General Service Gallonage Charge

| | | | |
|------------------------------|--------|--------|--------|
| Per 0 - 5,000 gallons | \$0.00 | \$2.14 | \$0.02 |
| Per 1,000 gallons over 5,000 | \$0.25 | \$3.16 | \$0.03 |

Typical Residential 5/8" x 3/4" Meter Bill Comparison

| | | |
|----------------|--------|---------|
| 3,000 Gallons | \$5.00 | \$21.28 |
| 5,000 Gallons | \$5.00 | \$25.56 |
| 10,000 Gallons | \$6.25 | \$41.36 |

Exhibit "A"

Handwritten initials: JAD, BLS

Handwritten signature: SCP