

Eric Fryson

From: Dana Rudolf [drudolf@sflaw.com]
Sent: Friday, May 18, 2012 3:28 PM
To: Filings@psc.state.fl.us
Cc: Martin Friedman
Subject: Docket No. 110153-SU; Utilities, Inc. of Eagle Ridge's Application for Increase in Wastewater Rate in Lee County, Florida

Attachments: Joint Motion Requesting Commission Approval of Stipulation and Settlement.pdf

- a) Martin S. Friedman, Esquire
Sundstrom, Friedman & Fumero, LLP
766 North Sun Drive, Suite 4030
Lake Mary, FL 32746
(407) 830-6331
mfriedman@sflaw.com
- b) Docket No. 110153-SU
Utilities, Inc. of Eagle Ridge's Application for Increase in Wastewater Rate in Lee County, Florida
- c) Utilities, Inc. of Eagle Ridge
- d) 6 pages
- e) Joint Motion Requesting Commission Approval of Stipulation and Settlement Agreement.

5/18/2012

DOCUMENT NUMBER DATE
03172 MAY 18 2012
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in wastewater)
rates in Lee County by Utilities, Inc. of Eagle)
Ridge.)
_____ /

Docket No. 110153-SU

Filed: May 18, 2012

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

Utilities, Inc. of Eagle Ridge ("Eagle Ridge"), and the Office of Public Counsel ("OPC") file this Joint Motion requesting the Florida Public Service Commission ("Commission") approve the attached Stipulation and Settlement Agreement. In support of this Joint Motion, Eagle Ridge and OPC state:

1. Eagle Ridge and OPC have entered into a Stipulation and Settlement Agreement resolving Eagle Ridge's Petition for a formal administrative hearing and OPC's Cross Petition concerning Proposed Agency Action Order No. PSC-11-0587-PAA-SU, issued December 21, 2011, in accordance with the terms of the Stipulation and Settlement Agreement. A copy of the Stipulation and Settlement Agreement is attached hereto as Exhibit "A".

2. Eagle Ridge and OPC have entered into the Stipulation and 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, Eagle Ridge and OPC request the Commission to expeditiously issue a final order approving the Stipulation and Settlement Agreement without modification and close Docket No. 110153-SU.

3. Pending Commission consideration of the Stipulation and Settlement Agreement, Eagle Ridge and OPC request the Commission to suspend and abate all discovery and all events

DOCUMENT ACCEPTED DATE

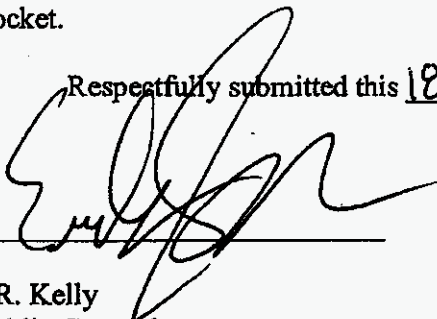
03172 MAY 18 2012

FPSC-COMMISSION CLERK

currently scheduled in the CASR for this Docket and established by the most recent Order Establishing Procedure, Order No. 12-0128-PCO-SU, until such time as the Commission acts on this Motion.

WHEREFORE, Eagle Ridge and OPC respectfully request the Commission to approve without modification the attached Stipulation and 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 18 day of May, 2012.



J.R. Kelly
Public Counsel

Erik L. Sayler
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
111 W. Madison Street, Rm 812
Tallahassee, FL 32399-1400
Phone: (850) 488-9330

Attorneys for the Citizens of the State
of Florida



Martin S. Friedman
Sundstrom, Friedman & Fumero, LLP
Attorneys at Law
766 North Sun Drive, Suite 4030
Lake Mary, Florida 32746
Phone: (407) 830-6331

Attorney for Utilities, Inc. of Eagle Ridge

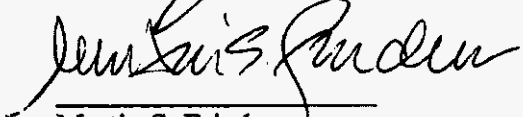
CERTIFICATE OF SERVICE
DOCKET NO. 110153-SU

I HEREBY CERTIFY that a true and correct copy of the foregoing Joint Motion Requesting Commission Approval of Stipulation and Settlement Agreement has been furnished by electronic and U.S. Mail to the following party on this 10 day of May, 2012.

Martha Barrera, Esquire
Jennifer Crawford, Esquire
Office of the General Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850



Erik L. Sayler
Associate Public Counsel



Martin S. Friedman
Attorney for Utilities, Inc. of Eagle Ridge

Exhibit "A"

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for increase in wastewater)
rates in Lee County by Utilities, Inc. of Eagle)
Ridge.)
_____)

Docket No. 110153-SU

Filed: May 18, 2012

STIPULATION AND SETTLEMENT AGREEMENT

THIS STIPULATION AND SETTLEMENT AGREEMENT is made and entered into this 18 May, 2012, by and between Utilities, Inc. of Eagle Ridge ("Eagle Ridge" or "Utility"), and the Office of Public Counsel on behalf of the customers of Eagle Ridge ("OPC").

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") issued Proposed Agency Action Order No. PSC-11-0587-PAA-SU, in this docket on December 21, 2011 ("PAA Order"); and

WHEREAS, on December 22, 2011, Eagle Ridge timely filed a Petition for formal administrative hearing, protesting specific issues in the PAA Order; and

WHEREAS, on January 9, 2012, OPC timely filed a Cross-Petition, protesting specific issues in the 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, OPC and Eagle Ridge 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, OPC and Eagle Ridge agree as follows:

Exhibit "A"

1. Eagle Ridge will petition this Commission to open a separate generic docket to address the issue relating to the Utility's Phoenix Project as raised in its December 22, 2011 Petition. OPC will not oppose that petition and Eagle Ridge will not object to OPC including additional Phoenix Project issues and other issues in the generic docket which broadly relate to the issues raised by OPC in its petition, in issue identification meetings in this docket, and any issues related to making and maintaining accounting and ratemaking adjustments in compliance with the NARUC Uniform System of Accounts and prior Commission orders. Once the generic docket has been opened, the parties request a 120 day investigatory period in which to meet informally with staff in a good faith effort to resolve or narrow the disputed generic issues identified herein. If the parties are unable to resolve all the generic issues informally, the parties will request that the remaining disputed issues be decided by the Commission. Following the Commission's final decision in this generic docket, if there is an upward or downward adjustment to the previously approved revenue requirement for Eagle Ridge, the Utility shall create a regulatory asset or liability. Eagle Ridge shall be required to accrue interest on the regulatory asset or liability at the commercial paper rate until recovered in rates established in the next rate proceeding for Eagle Ridge. In the next rate proceeding, the unrecovered regulatory asset or liability shall be amortized over four years.

2. The Utility and OPC agree that the final order in this docket shall specify no used and useful percentage for the wastewater treatment facilities. It is the intent of Eagle Ridge and OPC that this PAA Order shall have no precedential value regarding this issue. The language pertaining to the used and useful percentage for the wastewater treatment facilities shall be stricken from the PAA Order. *See* PAA Order No. 11-0587-PAA-SU, at 9-10.

3. Regarding all other issues decided by the PAA Order, the Utility and OPC agree that those issues, except those subject to the terms of this Stipulation and Settlement Agreement, shall become final upon the Commission's acceptance and approval of this Stipulation and Settlement Agreement without modification.

4. The Utility agrees not to file the minimum filing requirements for any new rate case until at least two years after the execution of this Stipulation and Settlement Agreement, except for price index and pass-through adjustments allowed pursuant to Section 367.081(4), Florida

Exhibit "A"

Statutes or a limited proceeding pursuant to Section 367.0822, Florida Statutes, following a *force majeure* event or change in regulatory requirements directly affecting Eagle Ridge.

5. If this Stipulation and Settlement Agreement is not accepted and approved without modification by the Commission, then this Stipulation and 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.

6. Eagle Ridge and OPC expressly agree that all activity relating to this docket should be suspended and abated until the Commission disposes of the Joint Motion Requesting Commission Approval of this Stipulation and Settlement Agreement.

7. This Stipulation and 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 Stipulation and Settlement Agreement, Eagle Ridges' Petition for formal administrative hearing and OPC's Cross-Petition shall be deemed withdrawn in accordance with the terms of this Stipulation and Settlement Agreement.

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

OFFICE OF PUBLIC COUNSEL

By: _____

Erik L. Sayler
Associate Public Counsel
On behalf of the Customers of
Utilities, Inc. of Eagle Ridge

UTILITIES, INC. OF EAGLE RIDGE

By: _____

Martin S. Friedman
Attorney for Utilities, Inc. of Eagle Ridge