

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for limited proceeding rate
increase in Polk County by West Lakeland
Wastewater, Inc..

DOCKET NO. 140106-SU
ORDER NO. PSC-14-0679-PAA-SU
ISSUED: December 9, 2014

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING WEST LAKELAND WASTEWATER, INC.'S
LIMITED RATE INCREASE

AND

FINAL ORDER APPROVING RATE REDUCTION IN FOUR YEARS AND
GRANTING TEMPORARY RATES IN THE EVENT OF A PROTEST

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein, except for the reduction in rates in four years and granting temporary rates in the event of a protest, is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.AC).

Background

West Lakeland Wastewater, Inc. (West Lakeland or Utility) is a Class C wastewater utility that serves approximately 300 customers in Polk County. Water service is provided by the City of Lakeland. According to West Lakeland's 2013 annual report, total gross revenues were \$102,514 and total operating expenses were \$146,655, resulting in a net loss of \$44,141.

On March 26, 2009, we received a notice of abandonment from West Lakeland effective June 30, 2009. Mr. Mike Smallridge was appointed receiver and is currently operating the

system.¹ The Utility's last staff-assisted rate case was in 2012 and was followed up by 2013 and 2014 price indexes.²

On May 20, 2014, the Utility filed its application for a limited proceeding in order to recover additional costs for customer billing and for the renewal of its operating permit. The Utility's filing was deficient and a deficiency letter was sent on June 18, 2014. The Utility has since filed its corrections to the deficiencies. We have jurisdiction in this case pursuant to Section 367.0822, Florida Statutes (F.S.).

Decision

Appropriate Revenue Increase

In its application, the Utility requested \$2,263 for the increase in expenses associated with switching from postcard bills to paper bills in envelopes. West Lakeland also requested \$3,300 for the cost of renewing its DEP permit, for a total requested increase of \$5,563. On September 6, 2014, the Utility filed a revised request which reflected \$1,371 for billing, \$3,300 for its DEP permit renewal, and a ten percent "Public Service Tax." Table 1 below details the Utility's revised request of \$4,870.

Table 1

Utility Request	
Description	Annual Expense
Envelopes (Send and Return)	\$446
Paper	36
Ink	173
Postage	1,852
Post Cards	(1,436)
Labor (Print, Fold, Stuff and Stamp)	<u>300</u>
Sub Total - Billing	\$1,371
RAFs (4.5%)	\$62
County Public Service Tax (10%)	137
DEP Permit Renewal	<u>3,300</u>
Total	<u>\$4,870</u>

¹ See Order No. PSC-09-0607-FOF-SU as amended by PSC-09-0607A-FOF-SU, issued February 16, 2010, in Docket No. 090154-SU, In re: Notice of abandonment of wastewater system for The Village of Lakeland Mobile Home Park in Polk County, by West Lakeland Wastewater, Inc.

² See Order No. PSC-13-0327-PAA-SU, issued July 16, 2013, in Docket No. 120270-SU, In re: Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

In its revised request, West Lakeland included \$1,371 to switch from billing its customers via postcards to paper bills in envelopes. We reviewed West Lakeland's application as well as supporting documentation provided by the Utility; based on our analysis, the billing costs requested shall be reduced by \$199 to reflect the appropriate incremental ink and labor expenses. Therefore, the incremental billing expenses are set at \$1,172.

We reviewed Polk County Ordinance regarding the "Public Service Tax."³ The tax is only assessed on water service provided in undeveloped areas of Polk County. West Lakeland provides only wastewater service. Thus, the Polk County "Public Service Tax" shall be removed from the Utility's request.

West Lakeland also requested recovery of costs to renew its Florida Department of Environmental Protection (DEP) operating permit. The Utility is required to renew its permit every five years, which is due to expire on or about January 10, 2015. We recognize that this is a recurring expense, but it is only incurred every five years, and thus normalizing the cost over a 5-year period is appropriate. As such, the DEP permit renewal costs shall be reduced by \$2,640 ($\$3,300 \times (4/5)$).

Additionally, the \$500 filing fee paid by the Utility in this case, as well as the noticing costs which we find to be \$435, shall be amortized over a 4-year period. The total revenue increase of \$2,066 ($\$1,172 + \$660 + \234) shall be subject to the ten percent operating margin approved in West Lakeland's last staff-assisted rate case.⁴ Table 2 below details the approved revenue increase.

³ See Article III of Chapter §11.6 Polk County Code of Ordinances.

⁴ See Order No. PSC-13-0327-PAA-SU, issued July 16, 2013, in Docket No. 120270-SU, In re: Application for staff-assisted rate case in Polk County by West Lakeland Wastewater, LLC.

Table 2

Commission Approved Increase			
Expense	Per Utility	Adjustment	Per Commission
Envelopes (Send and Return)	\$446	\$ 0	\$446
Paper	36	0	36
Ink	173	(87)	87
Postage	1,852	0	1,852
Post Cards	(1,436)	0	(1,436)
Labor (Print, Fold, Stuff and Stamp)	<u>300</u>	<u>(112)</u>	<u>188</u>
Sub Total - Billing	\$1,371	(\$199)	\$1,172
Rate Case Expense	\$ 0	\$234	\$234
RAFs (4.5%)	62	45	107
County Public Service Tax (10%)	137	(137)	0
Operating Margin	0	207	207
DEP Permit Renewal	<u>3,300</u>	<u>(2,640)</u>	<u>660</u>
Total	<u>\$4,870</u>	<u>(\$2,491)</u>	<u>\$2,379</u>

Appropriate Wastewater Rates

We find that wastewater rates shall be designed to produce additional service revenues of \$2,379 or a 1.98 percent increase. The calculation is as follows:

Table 3

<u>Wastewater</u>	
1 Test Year Revenues from Service Rates	\$119,957
2 Revenue Increase	<u>\$2,379</u>
3 % Service Rate Increase (Line 2/Line 1)	1.98%

The percent increase shall be applied as an across-the-board increase to the existing rates. The appropriate monthly wastewater rates are shown on Schedule No. 1. The Utility shall file revised tariff sheets and a proposed customer notice to reflect our approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates shall not be implemented until Commission staff has approved the proposed customer notice and the notice has been received by the customers. The Utility shall provide proof of the date notice was given within 10 days of the date of the notice.

Approving Temporary Rates

We have approved this increase in rates to recover additional costs for customer billing and operating permit renewal. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, in the event of a protest is filed by a substantially affected person, we approved these rates temporary rates. The Utility is authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security shall be in the form of a bond or letter of credit in the amount of \$1,587. Alternatively, the Utility could establish an escrow agreement with an independent financial institution. The approved rates collected by the Utility shall be subject to the following refund provisions:

If the Utility chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:

- 1) We approve the rate increase; or
- 2) If we deny the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it shall contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect, and,
- 2) The letter of credit will be in effect until a final order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

- 1) No monies in the escrow account may be withdrawn by the Utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to the Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments;
- 8) The Commission Clerk must be a signatory to the escrow agreement; and
- 9) The account must specify by whom and on whose behalf such monies were paid.

The maintenance and administrative costs associated with the refund shall not be borne by the customers. These costs are the responsibility of, and shall be borne by, the Utility. An

account of all monies received as a result of the rate increase shall be maintained by the Utility. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The Utility shall maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility shall file reports with the Commission Clerk's office no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund.

Four Year Rate Reduction

Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in rates. The reduction will reflect the removal of revenue associated with the amortization of rate case expense, the associated operating margin, and the gross-up for regulatory assessment fees. The total reduction is \$257.

The wastewater rates shall be reduced as shown on Schedule No. 1, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. The decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. West Lakeland shall file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that West Lakeland Wastewater, Inc.'s petition for a limited proceeding is granted as set forth in the body of this order. It is further

ORDERED that each of the findings made in the body of this order are hereby approved in every respect. It is further

ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that West Lakeland Wastewater, Inc. is hereby authorized to charge the new rates as set forth in the body of this order. It is further

ORDERED that West Lakeland Wastewater, Inc. shall be required to file revised tariff sheets and a proposed customer notice to reflect the approved rates. The approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The rates shall not be implemented until Commission staff has approved the proposed customer notice. West Lakeland Wastewater, Inc. shall provide proof of the date notice was given within 10 days of the date of the notice. It is further

ORDERED that pursuant to Section 367.0816, F.S., the rates shall be reduced, as reflected in Schedule No. 1, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period at the end of the four-year rate case expense amortization period as set forth in the body of this order. It is further

ORDERED that West Lakeland Wastewater, Inc. shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reductions no later than one month prior to the actual date of the required rate reduction. If West Lakeland Wastewater, Inc. files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease, and for the reduction in rates due to the amortized rate case expense. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, Florida Statutes. It is further

ORDERED that the rates approved herein shall be approved on a temporary basis, subject to the refund provisions set forth in the body of this order, in the event of a protest filed by a substantially affected person other than the Utility. It is further

ORDERED that prior to implementation of any temporary rates, West Lakeland Wastewater, Inc. shall provide the proposed customer notices and appropriate security for the potential refund. The Utility's total guarantee shall be in the amount of \$1,587. It is further

ORDERED that, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., West Lakeland Wastewater, Inc. shall file reports with the Commission Clerk's office no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund. It is further

ORDERED that an account of all monies received as a result of the rate increase shall be maintained by West Lakeland Wastewater, Inc. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C. It is further

ORDERED that in no instance shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the utility. It is further

ORDERED that the provisions of this order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that this docket shall remain open for Commission staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. Once these actions are complete, in the event that this Order becomes final, this docket shall be closed administratively. It is further

ORDERED that if no substantially affected person files a protest to this Proposed Agency Action Order within 21 days of its issuance, a Consummating Order shall be issued.

By ORDER of the Florida Public Service Commission this 9th day of December, 2014.



HONG WANG
Chief Deputy Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

MFB

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.

As identified in the body of this order, our action approving West Lakeland Wastewater, Inc.'s limited rate increase is preliminary in nature. Any person whose substantial interests are

affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 30, 2014. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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, 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 electric, gas or telephone utility or the First District Court of Appeal in the case of a water 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.

West Lakeland Wastewater, LLC Monthly Wastewater Rates		Schedule No. 1 Docket No. 140106-SU	
	UTILITY'S EXISTING RATES	COMMISSION APPROVED RATES	4 YEAR RATE REDUCTION
<u>Residential</u>			
Base Facility Charge - All Meter Sizes	\$14.92	\$15.22	\$0.03
Charge per 1,000 gallons 6,000 gallon cap	\$5.54	\$5.65	\$0.01
<u>General Service</u>			
Base Facility Charge by Meter Size			
5/8"X3/4"	\$14.92	\$15.22	\$0.03
1"	\$37.33	\$38.07	\$0.08
1-1/2"	\$74.64	\$76.12	\$0.17
2"	\$119.43	\$121.79	\$0.27
3"	\$238.87	\$243.60	\$0.54
4"	\$373.23	\$380.62	\$0.84
6"	\$746.45	\$761.23	\$1.67
8"	\$1,194.33	\$1,217.98	\$2.68
Charge per 1,000 gallons	\$6.65	\$6.78	\$0.01
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>			
3,000 Gallons	\$31.54	\$32.17	
6,000 Gallons	\$48.16	\$49.12	
10,000 Gallons	\$48.16	\$49.12	