

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a limited) DOCKET NO. 910963-WU
proceeding to adjust water) ORDER NO. PSC-92-0480-FOF-WU
rates in Pasco County by) ISSUED: 06/09/92
BETMAR UTILITIES, INC.)
_____)

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
SUSAN F. CLARK
J. TERRY DEASON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING INCREASED RATES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for formal proceedings pursuant to Rule 25-22.029, Florida Administrative Code.

BACKGROUND

Betmar Utilities, Inc. (Betmar or Utility) is a Class "C" utility that provides water and wastewater service to 1,548 water customers and 945 wastewater customers in Pasco County. According to its 1991 Annual Report, Betmar had operating revenues of \$149,890 for water service and \$188,992 for wastewater service. Further, the utility reported operating income of \$121,367 for water and \$135,559 for wastewater after adjustments.

In March 1989, Betmar installed backflow prevention devices on the customers' side of the meter in order to prevent prohibited cross connections. The Utility subsequently filed a staff-assisted rate case in Docket No. 880914-WS, in which it requested that the cost of these devices be treated as a utility investment and be included in rate base. In Order No. 20787, issued February 21, 1989, this Commission held that the cost of these devices should be included in the Utility's rate base calculation. The devices were depreciated over a 17-year life; however, no provision was made for the cost of annual testing and maintaining these devices in the Utility's staff-assisted rate case in Docket No. 900688-WS.

DOCUMENT NUMBER-DATE

05955 JUN -9 1992

FPSC-RECORDS/REPORTING

APPLICATION FOR LIMITED PROCEEDING

On September 17, 1991, Betmar filed a limited proceeding pursuant to Section 367.0822, Florida Statutes, to increase its rates to recover the cost of maintaining and testing the backflow prevention devices previously installed. The Utility has requested \$72,445 annually, to be recovered through the base facility charge (BFC), since the costs for the backflow prevention testing program are not related to water consumption. Included in this request is \$45,124 for testing of each device; \$20,261 for office employees; \$1,000 for office supplies, and \$2,800 for the amortized portion of the limited proceeding expense. Once these costs are grossed-up to reflect regulatory assessment fees, the resulting request for increased water revenue is \$72,445.

The Utility asserts that annual testing of the devices is required to remain in compliance with Department of Environmental Regulation (DER) requirements and has expressed concern regarding its liability should any injuries occur as a result of contamination passing through to the potable water supply.

It is Betmar's position that DER Rule 17-555.360, Florida Administrative Code, requires that, as a community water system, it install and maintain backflow prevention devices to detect and prevent cross-connection. Betmar is a community water system pursuant to Rule 17-555.200(42), Florida Administrative Code.

Rule 17-555.360(2) and (3), Florida Administrative Code, provides some guidance on what is required of a community water system when installing and maintaining a cross-connection program and the appropriate backflow prevention devices to be used if a prohibited cross-connection is discovered. Subsection (2) of the Rule references the American Water Works Association (AWWA) Manual 2nd Edition (the Manual) and AWWA Manual M14 (the M14) regarding cross-connection and backflow prevention. The aforementioned rules do not recognize a specific time schedule for testing these devices. The M14 refers to annual testing as acceptable, but does not require it. The Manual discusses enforcement action if annual testing does not take place.

We believe the rules do not require a utility to initiate an annual testing program once it has installed backflow prevention devices and, therefore, we do not believe it is appropriate to allow Betmar to recover the costs for annual testing of these devices.

However, we find that refurbishing the dual check valves would be an adequate maintenance program. With respect to the thirty commercial customers with dual check valves, we believe a yearly refurbishment is needed because of the degree of hazard involved. In addition, Betmar has installed four approved backflow prevention devices for its commercial customers. Because these are approved devices, we find it appropriate to permit Betmar to recover the costs of annual testing of these devices in its maintenance program.

Moreover, we believe that customer education is a valid component of any cross-connection control program and find that this education may be accomplished by inserting a cross-connection brochure in the monthly billings twice a year. This is consistent with language in the Manual.

Therefore, based on the above, we find it appropriate to authorize Betmar to recover \$23,496 on an annual basis for the cost of refurbishing 50 percent of the devices annually for residential connections, 100 percent of the dual check valves for the thirty commercial connections and the annual testing for the four approved devices on the remaining commercial connections. On a per customer basis, this equates to an annual cost of \$15.17, or a monthly cost of \$1.26 per customer. We will discuss below the specific costs for which we are authorizing recovery.

1. Responsibility for Installation and Maintenance According to language in the M14, if a cross-connection or a potential for a cross-connection exists, the water user, at the water user's expense, must install, have tested, and maintain approved backflow preventers as required by the health agency or the water supplier.

However, according to the Manual, referenced in Rule 17-555.360(2), Florida Administrative Code, the water supplier is ultimately held responsible for the integrity of the public water system and its liability cannot be shifted to any other person or authority. Moreover, the courts held that, if negligence is found, the water purveyor can be held responsible for another party's acts and lack of action.

Betmar's dual check valve devices are located on the customers' side of the meter. The point of delivery for water systems according to Rule 25-30.210(7), Florida Administrative Code, is the outlet connection of the meter for metered service or the point at which the utility's piping connects with the customer's piping for non-metered service. Therefore, the

utility's maintenance responsibility is up to and including the point of delivery.

However, because we have previously allowed Betmar to install the backflow prevention devices and include the cost of these in its rate base as utility investment, we find that the Utility should be responsible for maintaining the backflow prevention devices.

Our decision herein is based on the circumstances of this Utility, and is not a broad policy statement that a utility shall always be responsible for maintaining these devices. Rather, this determination must be made on a case-by-case basis.

2. Personnel Requirement Betmar requested a full-time office employee at a cost of \$20,261 to handle the administrative duties related to the backflow prevention program.

The utility currently has two part-time office employees in addition to the utility owner. The office personnel have overlapping duties. We believe that the major administrative functions associated with the cross-connection control program are filing and maintaining annual records on testing and maintenance of the devices. These filing duties would not generate such a burden as to require additional office personnel. Thus, these duties can be phased in with the other office duties.

To better understand the backflow testing process, our staff observed a field test demonstration. Because the device had to be rebuilt the total test time was approximately 32 minutes. However, it was estimated that if the device had operated properly and no rebuilding was necessary it would have taken approximately 15 minutes to perform the test. Therefore, we believe four devices can be refurbished within one hour.

With 1,514 residential devices it would take approximately 379 hours to refurbish all of Betmar's residential devices. Since we have decided it is appropriate to authorize Betmar to recover the costs of refurbishing 50 percent of its residential devices each year, we find that a part-time person is more than sufficient to refurbish the residential devices and the 30 commercial dual check devices, and test the four approved dual check devices annually. However, for the program to be adequate, we find that a part-time person shall be hired to perform the maintenance and testing duties at a cost of \$13,435, including FICA taxes paid by the utility.

3. Office Supplies The utility requested \$1,000 for office supply expenses, including the cost for educational brochures. As previously stated, we consider customer education a valid component of the cross-connection program based on DER's rule.

We believe part of this education can easily be accomplished by inserting a cross-connection brochure in the monthly billings twice a year. We researched the cost of these brochures and determined that the approximate cost would be between \$500 and \$750. Taking into account other costs, we find that the utility should be allowed \$750 for the cost of these brochures.

4. Maintenance Costs for Backflow Prevention Devices As previously mentioned, no provision was made for the costs associated with maintenance of the dual check valve devices in the two previous staff-assisted rate cases, Dockets Nos. 900688-WS and 880914-WS. In the instant case, the utility has requested the costs associated with maintaining the backflow prevention devices be recovered through the water BFC, since the costs for the backflow prevention testing program are not related to water consumption. Since the backflow prevention devices were included in rate base in Docket No. 880914-WS, we believe it is appropriate now to allow the utility to recover the cost of maintaining the devices.

We agree that the costs for maintenance of the devices should be recovered solely through the water BFC. Each device will be maintained on an annual basis for commercial customers and on a bi-annual basis for residential customers. Therefore, we find that including the cost in the BFC will ensure that each customer pays his or her appropriate fair share of the cost of maintenance. Since salaries are fixed costs, we also find that the salary for the half-time maintenance employee should be included in the BFC.

The rates shall be effective for meter readings 30 days on or after the stamped approval date of the tariff sheets. The revised tariff sheets will be approved upon our staff's verification that the tariff sheets are consistent with our decision herein, and that the proposed customer notice is adequate.

STATUTORY RATE REDUCTION

Section 367.0816, Florida Statutes, requires that rate case expense be apportioned for recovery over a period of four years. The statute further requires that the rates of the utility be reduced immediately after the four-year period by the amount of rate case expense previously included in the rates. The annual

ORDER NO. PSC-92-0480-FOF-WU
DOCKET NO. 910963-WU
PAGE 6

amount of allowable recovery in the instant case, including a gross-up for regulatory assessment fees, is \$2,225.

At the end of four years, Betmar's rates should be reduced by \$2,225 annually. Our calculations are shown on Schedule No. 2.

EFFECTIVE DATE OF RATE INCREASE

In Docket No. 920449-WS, we have initiated an investigation of potential overearnings. We find it appropriate that the increase discussed herein not go into effect until the overearnings investigation is at a point that the amount of money to be held subject to refund, if any, for wastewater can be determined.

Betmar shall file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. At the same time, the Utility also shall file a proposed customer notice setting forth the lower rates and the reason for the reduction. If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should 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, therefore,

ORDERED by the Florida Public Service Commission that the request of Betmar Utilities, Inc., for a limited proceeding to increase its rates is hereby granted in part as set forth in the body of this Order. It is further

ORDERED that this increase shall not become effective until the overearnings investigation in Docket No. 920449-WS is at a point where we can determine the amount of money to be held subject to refund, if any, for wastewater. It is further

ORDERED that prior to its implementation of the rates approved herein, Betmar Utilities, Inc., shall submit and have approved revised tariff pages and a proposed notice to its customers of the increased rates and the reasons therefor. The revised tariff pages and the notice will be approved upon the expiration of the protest period and our Staff's verification that they are consistent with our decision herein. It is further

ORDERED that the provisions of this Order are issued as proposed agency action and shall become final and effective unless an appropriate petition in the form provided by Rule 25-22.036,

ORDER NO. PSC-92-0480-FOF-WU
DOCKET NO. 910963-WU
PAGE 7

Florida Administrative Code, is received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida, by the close of business on the date set forth in the "Notice of Further Proceeding or Judicial Review" attached hereto. It is further

ORDERED that, in the event no protest is timely filed, this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 9th day of June, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street,

ORDER NO. PSC-92-0480-FOF-WU
DOCKET NO. 910963-WU
PAGE 8

Tallahassee, Florida 32399-0870, by the close of business on June 30, 1992.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

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.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Director, Division of Records and Reporting 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 of the effective date 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.

SCHEDULE OF PRESENT, PROPOSED AND APPROVED RATES

WATER

GENERAL AND RESIDENTIAL SERVICE

<u>Meter Size</u>	<u>Utility Present Rates</u>	<u>Proposed Rates</u>	<u>Commission Approved Rates</u>
5/8" x 3/4"	\$ 4.23	\$ 8.09	\$ 5.49
3/4"	6.35	10.21	7.61
1"	10.58	14.44	11.84
1-1/2"	21.16	25.02	22.42
2"	33.86	37.72	35.12
3"	67.71	71.57	68.97
4"	105.79	109.65	107.05
Gallorage Charge	\$ 1.83	1.83	1.83

ORDER NO. PSC-92-0480-FOF-WU
DOCKET NO. 910963-WU
PAGE 10

Schedule No. 2

CALCULATION OF NEW WATER RATES
AFTER FOUR YEAR AMORTIZATION EXPIRED

GENERAL AND RESIDENTIAL SERVICE

<u>METER SIZE</u>	<u>COMMISSION APPROVED RATES</u>	<u>COMMISSION APPROVED DECREASE</u>
5/8" X 3/4"	\$ 5.49	\$ 0.12
3/4"	7.61	0.12
1"	11.84	0.12
1-1/2"	22.42	0.12
2"	35.12	0.12
3"	68.97	0.12
4"	107.05	0.12