

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Review of ) DOCKET NO. 920118-WU  
Service Availability Charges ) ORDER NO. PSC-92-0632-FOF-WU  
in Highlands County by PLACID ) ISSUED: 07/07/92  
LAKES UTILITIES, INC. )  
\_\_\_\_\_ )

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK  
J. TERRY DEASON  
BETTY EASLEY  
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

AND

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action approving service availability charges 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, Administrative Code.

BACKGROUND

Placid Lakes Utilities, Inc. (Placid Lakes) is a Class "C" water utility located in Highlands County. Highlands County became jurisdictional September 1982. Placid Lakes was organized in 1970 and was granted Certificate No. 401-W by Order No. 12594, issued October 10, 1983. When the Commission granted the utility its certificate, existing rates, charges and territory were grandfathered in. Subsequently, Placid Lakes was granted a rate adjustment by application of the 1984 price index and a rate increase by a staff-assisted rate case proceeding in Docket No. 840247-WU. Order No. 16238, issued June 16, 1986, approved rates and service availability charges. Order No. 16238 also established the utility's rate base as a negative balance due to an 86 percent level of contributions-in-aid-of-construction (CIAC) and nonused

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and useful adjustments. Since the utility's rate base resulted in a negative balance, no return on investment and no depreciation expense or income tax expenses were allowed in setting rates. In that Order No. 16238, we also discontinued a \$600 system capacity charge to prevent further over-contribution and approved meter installation charges of \$175 for a 5/8" X 3/4" meter and actual cost for meters larger than 5/8" X 3/4".

In 1986, a developer filed a formal complaint against Placid Lakes for refusing to provide service to two of his lots in the utility's service area. The complaint was settled. However, the complaint led to an investigation which resulted in a reduction in the utility's certificated area. By Order No. 17372, issued April 7, 1987, we found that Placid Lakes could bring service to undeveloped parts of its territory only by a considerable outlay of funds, which it did not have or by requiring developers to install and contribute the mains which would continue or increase the utility's already over-contributed posture. We, therefore, deleted an undeveloped portion of the utility's territory from its certificated service area.

#### SHOW CAUSE

Between June 1990 and January 1992, we received approximately three telephone calls from developers who owned lots in Placid Lakes' certificated area. The developers stated that Placid Lakes refused to provide service to them. On August 1, 1990, we discovered that Placid Lakes was connecting those lots that had lines already available, and was not providing service to those lots where lines were not available because the utility was not generating sufficient funds to make line extensions. In response to these findings, the utility explained that this Commission had substantially reduced Placid Lakes' service availability charges and prohibited it from accepting contributed lines. The utility stated also that it did not have sufficient funds to further extend water service to those persons within its service area who are not adjacent to existing water lines.

In August 1990, we also discovered that Placid Lakes' parent company, Lake Placid Holding Company, was collecting a \$575 charge per connection from developers in the service area where lines were available. The parent company recorded these collections as work-in-progress for Placid Lakes. Placid Lakes is a 100 percent

subsidiary of its parent company. Based on the above information and other information received from the utility, we believe that these collections by the parent company are actually CIAC and should have been recorded by Placid Lakes as CIAC.

As previously mentioned, we discontinued the utility's \$600 system capacity charge because its level of CIAC, at 86 percent, exceeded the maximum level of 75 percent provided for in Rule 25-30.580, Florida Administrative Code. We also authorized a meter installation charge. Based on work papers prepared by Placid Lakes' accountant, Placid Lakes collected and recorded on its books the authorized meter installation fees from 1986 forward. However, the parent company collected \$141,525 in unrecorded CIAC from 1986 through 1990 on behalf of Placid Lakes. The CIAC of \$141,525 collected by the parent company is, in actuality, unauthorized service availability charges, the collection of which violated Order No. 16238.

Pursuant to Section 367.111, Florida Statutes, any utility under this Commission's jurisdiction is required to provide service to the area described in its certificated area within a reasonable time frame. We believe that Placid Lakes has violated Section 367.111, Florida Statutes, by refusing to provide service to customers in its certificated area. Placid Lakes is also in violation of Order No. 16238 by allowing its parent company to collect unauthorized CIAC of \$141,525. Section 367.161, Florida Statutes, provides for a penalty of up to \$5,000 for each offense for any utility who knowingly refuses to comply with, or willingly violates any provision of the statutes or any lawful rule or order of the Commission. Therefore, the utility is ordered to show cause, in writing, twenty days from the date of this Order, why it should not be fined up to \$5,000 for each offense for failure to provide service to new customers in its certificated area, and for collecting unauthorized service availability charges.

#### SERVICE AVAILABILITY CHARGES

As addressed earlier, developers that owned lots in Placid Lakes' certificated area complained that the utility refused to connect those lots where lines were not available. Placid Lakes' response to the customer complaints was that this Commission had substantially reduced its service availability charges and prohibited it from accepting contributed lines. Placid Lakes also represented that it did not have sufficient funds to further extend



water service to those persons within its service area who are not adjacent to existing water lines.

On February 11, 1992, Placid Lakes filed an application requesting a review of its service availability charges. The utility has satisfied filing requirements and paid the appropriate filing fee.

Rule 25-30.580(a) and (b), Florida Administrative Code, provides guidelines for maximum and minimum CIAC levels for utilities. Placid Lakes' CIAC level was 86 percent in 1986 when the utility was granted a rate increase in Docket No. 840247-WS. This percentage exceeded the maximum CIAC level of 75 percent as set forth in Rule 25-30.580, Florida Administrative Code. As a result, we discontinued Placid Lakes' \$600 system charge. The rates approved in Docket No. 840247-WS allowed the utility to recover operating expenses only.

In this case, we have updated the utility's rate base through December 1990 to determine its level of CIAC. Our calculated level of CIAC is based on audited rate base totals through June 30, 1988, unaudited rate base totals from annual reports through December 30, 1990, plus \$141,525 CIAC collected by the parent company from 1986 through December 1990. This calculation results in an estimated CIAC level of 103 percent.

It appears that the utility is experiencing problems providing service to its certificated area due to the layout of the line extensions and insufficient cash flow to make further extensions. The reason for this problem is that the utility has overextended its water mains to serve too few customers over too wide an area. In addition, customers are requesting service where there are no lines. Rule 25-30.580(2), Florida Administrative Code, contains provisions for the waiver of the 75 percent maximum amount of CIAC under certain circumstances. That rule states:

In any case where compliance with the guidelines of subsection (1) introduces unusual hardship or unreasonable difficulty, and the Commission, utility, or interested party shows that it is not in the best interests of the customers of the utility to require compliance, the Commission may exempt the utility from the guidelines.

We believe that the circumstances in this case warrant waiver of Rule 25-30.580, Florida Administrative Code, pursuant to subsection (2). Therefore, we find it appropriate to authorize Placid Lakes to collect a main extension charge or accept donated lines from future developers/customers. Although it is not our general practice to waive Rule 25-30.580, in order to ensure that funds are available to make future connections, we find it necessary that a charge be established.

We have determined that the existing plant can accommodate 339 future connections. The estimated cost for line extensions for 339 connections is \$108,480 at a cost of \$320 per connection. Based on these figures, Placid Lakes must provide 25 percent of the funding for line extensions and 75 percent must be passed on to future customers which results in a main extension charge of \$240 (320 X .75). This charge shall be collected for all future connections where lines are already available. Placid Lakes is also authorized to accept donated lines from developers/ customers, in lieu of the main extension charges where lines are not already available. The utility's existing meter installation charges and tap-in fees will be retained. We hereby approve service availability charges will be as follows:

Water

Service Availability Charges

<u>Meter Installation and Tap-In Charge</u>	<u>Commission Approved</u>
<u>Meter Size</u>	
5/8" X 3/4"	\$175
All over 5/8" X 3/4"	Actual Cost
Main Extension Charge *	\$240

\*The utility may accept donated lines from the developer/ customer in lieu of the main extension charge where lines are not already available.

If a timely protest is not received within twenty-one days from the date of this Order, the above charges shall be effective for connections made on or after the stamped approval date on the revised tariff sheets. The revised tariff sheets shall be approved upon our verification that they are consistent with our decision and the proposed customer notice is adequate.

It is, therefore,

ORDERED by the Florida Public Service Commission that Placid Lakes Utilities, Inc. shall show cause, in writing, twenty days from the date of this Order, why it should not be fined up to \$5,000 for each offense for failure to provide service to new customers in its certificated area. It is further

ORDERED that Placid Lakes Utilities, Inc. shall show cause, in writing, twenty days from the date of this Order, why it should not be fined up to \$5,000 for each offense for collecting unauthorized service availability charges. It is further

ORDERED that Placid Lakes Utilities, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that Placid Lakes Utilities, Inc.'s opportunity to file a written response shall constitute its opportunity to be heard prior to final determination of noncompliance or assessment of penalty. It is further

ORDERED that a failure to file a timely written response to this show cause order shall constitute an admission of the facts alleged in the body of this Order and a waiver of any right to a hearing. It is further

ORDERED that, in the event that Placid Lakes Utilities, Inc. files a written response which raises material questions of fact and requests a hearing pursuant to Section 120.57(1), Florida Statutes, further proceedings may be scheduled before a final determination on these matters is made. It is further

ORDERED that if a fine is assessed and Placid Lakes Utilities, Inc. does not remit payment after reasonable collection efforts, we deem the fine to be uncollectible and authorize referral to the Comptroller's Office for further disposition. It is further




ORDER NO. PSC-92-0632-FOF-WU  
DOCKET NO. 920118-WU  
PAGE 7

ORDERED that Placid Lakes Utilities, Inc. is hereby authorized to charge service availability charges as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order approving service availability charges are issued as proposed agency action and shall become final unless an appropriate petition, in the form provided by Rule 25-22.029, Florida Administrative Code, is received by the Director, Division of Records and Reporting, at his office, located at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the date set forth in the Notice of Further Proceedings below. It is further

ORDERED that, in the event that the proposed agency action provisions of this Order become final, Placid Lake Utilities, Inc. shall implement the charges set forth and approved herein, and that such charges shall be effective for connections made on or after the stamped approval date on the revised tariff sheets. The revised tariff sheets will be approved upon our verification that they are consistent with this Commission's decision and the proposed customer notice is adequate.

By ORDER of the Florida Public Service Commission, this 7th day of July, 1992.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.

As identified in the body of this order, our action herein approving service availability charges 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, Tallahassee, Florida 32399-0870, by the close of business on July 28, 1992. In the absence of such a petition, this order shall become effective on the date 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 the relevant portion of 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.