

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a Staff-) DOCKET NO. 900761-WS
Assisted Rate Case in Citrus) ORDER NO. PSC-93-0532-FOF-WS
County by LAKE UTILITIES, LTD.) ISSUED: April 7, 1993
_____)

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF PROPOSED AGENCY ACTION

ORDER SUSPENDING FINE AND
MODIFYING REQUIREMENTS OF ORDER NO. 24750

BY THE COMMISSION:

Background

By Order No. 24750, issued July 2, 1991, we required Lake Utilities, Ltd. (Lake or utility) to complete certain water plant improvements within six months. This deadline expired January 2, 1992. The utility was also required to complete certain wastewater improvements within eighteen months. The utility failed to complete any of the water improvements within the deadlines set by this Commission. By letter dated January 17, 1992, the utility explained that it was unable to obtain financing for the water plant improvements.

By Order No. PSC-92-0209-FOF-WS, issued April 14, 1992, this Commission required the utility to show cause why it should not be fined up to \$5,000 per day, pursuant to Section 367.161, Florida Statutes, for its failure to comply with Order No. 24750.

Order No. PSC-92-0209-FOF-WS also required the utility to identify the methods of financing considered, each attempt made to obtain financing, and the name of each institution or potential source of financing contacted. This Order also required the utility to include any documentation of these efforts, including

DOCUMENT NUMBER-DATE

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any rejection letters, and for the utility to explain why its owners have not provided capital for expansion.

On June 10, 1992, the utility, in response to the show cause Order, asserted that it should not be fined because it did not willfully violate or knowingly refuse to comply with Order No. PSC-92-0209-FOF-WS. Further, it asserted it made a good faith effort to obtain financing and considered both loans from lending institutions and the possibility of additional capital investments from investment firms to finance the required improvements. In its response, the utility supplied three letters from lending institutions which denied loans due in part to lack of personal guarantees. Moreover, the utility asserted in its response that the principals of Lake Utilities cannot give personal guarantees on loans because they do not have the financial resources to subsidize the utility's cash flow to meet the three to five years amortization periods which banks are currently requiring.

By Order No. PSC-92-1298-FOF-WS, issued November 10, 1992, this Commission found that the utility failed to establish that it had made a good faith effort to obtain financing for the capital improvements. Specifically, we were concerned about the utility's failure to obtain written loan applications from any of the three banks that it contacted. We fined the utility \$5,000, but the Order provided that the fine would be suspended if the utility showed a good faith effort to secure financing and met with Commission staff and the utility customer representatives within 30 days of the issuance of Order No. PSC-92-1298-FOF-WS.

In addition, several utility customers stated at our October 20, 1992, Agenda Conference that tax records indicated the land upon which the utility is located is owned by Century Realty Funds, Ltd., and not the utility. We required that the utility provide this Commission with documentation that it owns the land within 30 days of the issuance of Order No. PSC-92-1298-FOF-WS and that failure to provide such documentation might result in a separate show cause proceeding.

Our Staff met with the customers' representatives on November 20, 1992, to determine if a consensus between the different homeowners associations could be reached to loan the utility the money for the upgrades, and what specific upgrades were essential and practical given the amount of funds in escrow. There were approximately eight customer representatives present, representing

the three different homeowners' associations, and specific individuals.

A second meeting was held on January 12, 1993. Seven customer representatives attended the second meeting along with the utility's vice president.

Suspension of Fine

As previously discussed, in Order No. PSC-92-1298-FOF-WS we assessed a fine totalling \$5,000 against the utility for violating Section 367.071, Florida Statutes, and Orders Nos. 24750 and PSC-92-0209-FOF-WS. However, we stated in that Order that the fine would be suspended if the utility showed a good faith effort to secure financing and met with our staff and utility customer representatives.

In response to the aforementioned Order the utility submitted a letter dated November 9, 1992, in which it asserted that it had worked extremely hard with all the lending institutions it contacted and had agreed to pledge all assets as collateral, which included land, plant, equipment and account receivables. The utility added that all three of the financial institutions responded in writing to the utility and requested not only the plant as collateral, but also personal guarantees along with rapid principal reduction which the cash flow of the utility could not support.

Subsequently, the utility submitted another letter on November 16, 1992, regarding the utility's efforts to obtain financing for the plant improvements. The utility asserted in that letter that it had met personally with lending institutions' representatives to discuss a loan for the improvements of the utility plant and had not completed any written loan requests because it was the utility's practice to meet with lending representatives in person. The utility contended that after the meetings the institutions informed the utility that they would not extend a loan commitment unless personal guarantees were extended.

Our Staff met with the customers on November 20, 1992, in an effort to determine the likelihood of customers extending a loan for the improvements. This was not a feasible alternative. A second meeting was held on January 12, 1993.

Based on the above, we believe that the utility has supplied a sufficient explanation that it did make a good faith effort to obtain financing for the capital improvements set forth in Order No. 24750. Two meetings have been held between the parties, as required by Order No. PSC-92-1298-FOF-WS, in an attempt to resolve the problems of the capital improvements. Therefore, we find it appropriate to suspend the fine that was assessed by Order No. PSC-92-1298-FOF-WS, provided the utility complete the improvements set forth below within the specified time frame.

Ownership of Land

A concern raised by the customers and discussed in Order No. PSC-92-1298-FOF-WS was the ownership of the land upon which the utility assets are located. On November 9, 1992, the utility submitted a letter containing two legal documents, a purchase agreement and a quit claim deed, which were prepared by the law firm representing the utility at the time of the transfer. The utility informed us that it had discovered that its law firm had failed to record the quit claim deed on behalf of the utility. As of the date this Order, it is our belief that the deed has now been recorded. Our staff is currently reviewing status of the land ownership.

Modification of Plant Improvements Established by Order No. 24750

Order No. 24750 required the utility to make certain water plant improvements including expanding the water treatment plant by adding a 2,500 gallon hydropneumatic tank, installing a 20,000 gallon storage tank, and installing two high service pumps. That Order also required certain wastewater plant improvements including expanding the wastewater treatment plant from a 20,000 gpd to 30,000 gpd package plant and upgrading existing ponds.

To date the utility has been unable to obtain financing and the improvements have not been made. In light of the utility's lack of finances, we have considered three alternatives, which for the various reasons below, we believe are not feasible. The first alternative was to continue to require pro forma plant additions through the use of the current escrow account. However, the

monthly amount the utility deposits into the escrow account would take approximately seven years to accumulate sufficient funds to make the improvements at today's estimated cost and ratepayers would be paying for these improvements, and not receiving any benefit.

We have also considered an interconnection/fire protection with the water district which would satisfy the Citrus County fire ordinance and replace the need for the 20,000 gallon storage tank/high service pump additions. However, we were informed by the Homosassa Water District that such a connection may be an unlawful extension of the boundaries of the District.

Lastly, we considered a one time per customer charge for the cost of additions. However, by implementing this charge the utility's service availability contribution levels would exceed the guidelines established by Rule 25-30.580, Florida Administrative Code. Moreover, because of the relatively few commercial locations in the utility's service area we believe that the level of the one time charge may be too high for families and retirees that comprise most of the utility's service area.

During the staff assisted rate case (SARC) the customers raised concern over the low water pressure provided by the utility. The customers' concern over this low water pressure still exists. In the SARC, we ordered that once the utility added any plant or made any upgrades to normalize water pressure, it would be required to meet the water ordinance adopted by Citrus County in 1985. Because we found the addition of a 2,500 gallon hydropneumatic tank was necessary to normalize water pressure, Order No. 24750 also required that additional plant be installed to meet fire flow requirements. However, in a letter we received after the utility filed its SARC, the Homosassa Fire Department informed the utility it would not have to meet the new fire flow ordinance if there were no major upgrades other than enlarging the hydropneumatic tank to 2,500 gallons. Therefore, the 20,000 gallon ground storage tank/high service addition required by Order No. 24750 shall not be required since its purpose was primarily to meet fire flow.

In the two meetings with the utility's customers, we attempted to determine what improvements would address the customers' most immediate concerns. During the first meeting with the utility and customer representatives on November 20, 1992, we determined that all of the customers were not willing to pay a one-time charge for

the cost of the improvements, nor was a loan arrangement between the customers and the utility feasible.

At the second meeting with the utility and the customers, it was determined that in order to address the customers' most immediate concerns several improvements had to be made. The water improvements included installing a 2,500 gallon hydropneumatic tank and replacing the existing well pumps and wiring the control panel so that the back-up pump will engage at 30 pounds per square inch (psi) or greater. Wastewater improvements included refurbishing the existing lift stations.

In addition, the parties agreed that it would be appropriate for the utility to install an intake and exhaust silencer on the blower system and replace the PVC pipe on the side of the tank with galvanized pipe in order to address any noise concerns raised by the customers. At the meeting, it was determined that all other pro forma plant improvements required by Order No. 24750 could be eliminated.

The customers agreed that these modified water and wastewater improvements should be funded by those amounts currently in the utility's escrow account which was established by Order No. 24750. The balance currently in the escrow account for water is \$6,554.09 and \$4,839.15 for wastewater. The customers at the meeting did not want a refund of the wastewater funds held in escrow and requested these funds be spent on refurbishing the existing lift stations. Any water improvements were to be paid from the escrow funds and any excess funds held in escrow after the cost of the improvements has been returned to the utility would be booked to contributions-in-aid-of-construction (CIAC).

Subsequent to the meeting, the utility submitted three bid proposals for the improvements. After reviewing these bids, we find that there are sufficient funds for the wastewater improvements, but there are not sufficient funds for the water improvements.

The customers expressed concern about outages they attributed to the existing well pumps. The pump replacement and rewiring were suggested as an added measure, along with the installation of the 2,500 gallon hydropneumatic tank, to remedy the pressure drops during peak demand. We received a letter from the president of Southeast Utilities, Inc., whom the utility hired to inspect and evaluate the utility's high service pumps, which indicated that the

two existing water pumps are operating satisfactorily, both mechanically and electrically. Based on this evaluation and the fact that there are not sufficient funds in escrow to replace the pumps, we believe that these two pumps should not be replaced. Installation of the 2,500 gallon hydropneumatic tank was initially ordered by this Commission to deal with the pressure problems. We are still hopeful that this tank will alleviate the pressure drops experienced during peak demand periods without replacing the pumps. To assure that the pumps are in fact operating sufficiently, we hereby require that the utility report all service interruptions or significant pressure drops related to the performance of the well pumps. This will allow us to monitor performance of the pumps until all upgrades are completed.

If the cost of the pump replacement and control panel rewiring is removed from the two lowest bids that the utility received for the water plant improvements, the cost is reduced to \$8,200, which is approximately \$1,666 less than the amount contained in the existing water escrow balance. The utility currently deposits an average of \$400 per month for water into the escrow account. By the time the protest period expires, the utility will have collected and deposited an estimated \$1,600. At that time, there will no longer be any deposits to the escrow account associated with pro forma improvements and the rates shall be reduced by that amount.

Therefore, we find it appropriate to modify Order No. 24750 to require the following water and wastewater improvements.

- A. Installation of a 2,500 gallon hydropneumatic tank within 160 days from the effective date of this Order.
- B. Refurbishment of the existing lift stations by replacing pumps, panel boxes, wiring, lift station switches and/or wet well lids.
- C. Installation of an intake and exhaust silencer on the blower system and replace the PVC pipe on the side of the tank with galvanized pipe.
- D. Upon completion of the installation of the water hydropneumatic tank, and refurbishment of the existing lift stations, and the installation of an intake and exhaust silencer on the blower system and replacement of the PVC pipe on the side of the tank with galvanized

pipe, the utility shall file copies of all invoices, canceled checks, contracts, and other cost verification documents supporting the cost of the improvements. Upon receipt of the cost documentation, our Staff will administratively authorize the bank to release money from the escrow account. Any excess of funds in the escrow account after the utility has been reimbursed for the cost of the water and wastewater improvements shall be booked to CIAC.

We also find it appropriate to modify Order No. 24750 to eliminate the following requirements:

- A. Discontinuation of the requirement of the expansion of the wastewater treatment plant from 20,000 gallons per day (gpd) to 30,000 gpd by adding two 5,000 gallon tanks to the package plant and upgrading existing ponds.
- B. Discontinuation of the requirement to install a 20,000 gallon storage tank, with high service pumps.

Finally, we modify Order No. 24750 to require the reduction of the water and wastewater rates to the levels set forth below. Upon the completion of all upgrades, the utility shall report to this Commission all service interruptions or significant pressure drops related to the performance of the well pumps.

Rates and Charges

The rates approved herein reflect the removal of pro forma plant because the utility will no longer be required to upgrade the water and wastewater plants as required by Order No. 24750. Because the plant improvements approved herein are to be paid out of the escrow funds, both plant and CIAC will be adjusted for the same amounts. The net change to rate base will be zero. Therefore, we find it appropriate that the rates be established at the level contained in Order No. 24750, excluding the pro forma plant. The utility's existing rates and those approved herein are set forth below for the purpose of comparison.

WATER
RESIDENTIAL SERVICE AND GENERAL SERVICE
MONTHLY RATES

<u>METER SIZES</u>	<u>EXISTING RATES</u>	<u>COMMISSION APPROVED</u>
5/8" x 3/4"	\$ 7.39	\$ 6.88
3/4"	11.09	10.32
1"	18.48	17.20
1 1/2"	36.95	34.40
2"	59.12	55.04
3"	118.24	110.08
4"	184.75	172.00
6"	369.50	344.00
 Gallonage Charge: Per 1,000 Gallons	 \$ 1.62	 \$ 1.03

WASTEWATER
RESIDENTIAL SERVICE
MONTHLY RATES

<u>METER SIZE</u>	<u>EXISTING RATES</u>	<u>COMMISSION APPROVED</u>
All Sizes	\$ 8.95	\$ 8.31
 Gallonage Charge: Per 1,000 Gallons to 6,000 gallon cap per month	 \$ 3.06	 \$ 2.48

GENERAL SERVICE
MONTHLY RATES

<u>METER SIZE</u>	<u>EXISTING RATES</u>	<u>COMMISSION APPROVED</u>
5/8" x 3/4"	\$ 8.95	\$ 8.31
3/4"	13.43	12.47
1"	22.38	20.78
1 1/2"	44.77	41.57
2"	71.63	66.51
3"	134.30	133.01
4"	223.84	207.83
6"	447.67	415.66
Gallage Charge: Per 1,000 Gallons	\$ 3.67	\$ 2.98

The rates will be effective for meter readings on or after thirty days after the stamped approval date of the tariffs. The utility shall submit revised tariff pages reflecting the approved rates along with a proposed customer notice listing the new rates and explaining the reasons therefor. The revised tariffs will be approved upon our staff's verification that the tariff pages are consistent with our decision herein, that the proposed customer notice is adequate, and that there has been not timely protest received.

This docket shall remain open for us to monitor the progress of the plant improvements and well pump performance, verification of the cost of the improvements, and release of the funds from escrow.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that the \$5,000 fine assessed by Order No. PSC-92-1298-FOF-WS is hereby suspended provided that Lake Utilities, Ltd. completes the plant improvements in the time frames set forth in this Order. It is further

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ORDERED that all provisions of this Order, 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 of the Division of Records and Reporting at his office 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 all pro forma water and wastewater plant improvements that were required by Order No. 24750 are hereby eliminated. It is further

ORDERED that Order No. 24750 is modified to the extent set forth in this Order. It is further

ORDERED that, upon the completion of all water and wastewater plant improvements, Lake Utilities, Ltd. shall provide documentation and other cost verification supporting the cost of these improvements. Upon receipt of this cost documentation, our Staff will authorize the bank to release monies contained in the utility's escrow account for the cost of the improvements. Any excess in the escrow account shall be credited to CIAC. It is further

ORDERED that Lake Utilities, Ltd. shall report all service interruptions or significant pressure drops related to the performance of the utility's two existing water pumps. It is further

ORDERED that Lake Utilities, Ltd. is authorized to charge the new rates and charges as set forth in the body of this Order. It is further

ORDERED that the installation of the 2,500 gallon hydropneumatic tank required in the body of this Order is to be installed within 160 days of the effective date of this Order. It is further

ORDERED that the rates approved herein shall be effective for meter readings taken on or after thirty days after the stamped approval date on the revised tariff pages. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Lake Utilities, Ltd. shall submit and have approved a proposed notice to its customers of the increased rates


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and charges and the reasons therefor. The notice will be approved upon our Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the rates and charges approved herein, Lake Utilities, Ltd. shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon our Staff's verification that the pages are consistent with our decision herein and that the protest period has expired. It is further

ORDERED that this docket shall remain open in monitor status until the required plant improvements have been made.

By ORDER of the Florida Public Service Commission this 7th day of April, 1993.



STEVIE 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

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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 April 28, 1993.

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.