

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Limited) DOCKET NO. 930635-SU
Proceeding Rate Increase for) ORDER NO. PSC-93-1600-FOF-SU
Wastewater Service in Lee County) ISSUED: November 2, 1993
by TAMIAMI VILLAGE UTILITY,)
INC.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

NOTICE OF PROPOSED AGENCY ACTION ORDER
GRANTING LIMITED PROCEEDING RATE INCREASE
SUBJECT TO ANNUAL REVIEW

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the actions discussed herein are preliminary in nature, and as such, 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.

BACKGROUND

Tamiami Village Utility, Inc. (TVU or utility) is a Class B water and wastewater utility in Lee County providing service to approximately 717 residential customers and several commercial customers. On June 29, 1993, TVU filed this application for a limited proceeding to establish a 21 percent rate increase for wastewater service. According to the utility, the requested increase is necessary to comply with a Circuit Court Order requiring the utility to reduce the effluent level at its percolation ponds. In accordance with those instructions, TVU was ordered to remove the effluent by truck, if necessary, to maintain a prescribed two foot freeboard. The Court also informed TVU that it should hire a professional engineer to evaluate the treatment facility and comply with the rules and regulations of the Florida Department of Environmental Protection (DEP).

A customer meeting was conducted by Commission Staff on October 9, 1993. During this meeting, several customers expressed

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their concern about whether the requested rate increase would provide a long-term solution to TVU's outstanding effluent removal problems. Also, some customers indicated that interconnection with a neighboring utility company might be more appropriate; however, to the extent interconnection is a viable solution, there were concerns about the high service availability charges to interconnect.

RATE INCREASE

In its application, the utility asked the Commission to allow prospective recovery of various expenditures reportedly incurred to maintain a prescribed maximum level in the utility's percolation ponds. The utility proposed this future recovery procedure based on a combined cost of \$44,972 and amortization over 5 years, for a corresponding \$9,418 addition to wastewater division earnings. This proposed increase was calculated solely with respect to the gallonage portion of customer billings.

A review of the utility's requested \$44,972 provision for recovery of prior costs indicates that this amount falls into three, basic categories:

(1) legal fees and other expenses to present arguments before the Circuit Court concerning DEP's direction that the utility should maintain a 2 foot freeboard around its percolation ponds (\$15,862 in total),

(2) improvements to plant facilities and various repair expenditures to maintain existing facilities (\$18,661 in total), and

(3) a remainder expense of \$10,449 for various costs related to controlling the level of effluent in the utility's holding ponds.

The utility's request to recover these costs over a 5 year term is not the customary method of recovery. Because many of the reported costs appear to represent plant improvements, those costs would be more appropriate if considered in a full rate proceeding. Likewise, the requested provision for recovery of legal expenditures should be included, if at all, in the context of a rate proceeding. Finally, allowing the reported expense for prior effluent hauling costs may be retroactive ratemaking, and it clearly gives no consideration to the great likelihood that similar

trucking costs shall be incurred in the future, at least while excessive infiltration levels persist.

Limited proceedings are normally utilized in those cases where the proposed rate increase results from a specific cause. This procedure can be contrasted with a full file and suspend rate case, which allows consideration of a multitude of increased expenses and investments. We believe the utility's application to recover these disparate costs of service exceeds the intended scope of a limited proceeding and is not appropriate. However, our review indicates that a nearly equivalent annual expense will be incurred on a going-forward basis for the hauling of effluent to a neighboring utility. We believe it is appropriate in this limited proceeding to permit recovery for this apparently unavoidable expense.

The utility provided supporting documents that showed the projected annual expense for removal of wastewater effluent will be about \$10,350 (90 truckloads at \$115 per load). This expense has been incurred since the utility's last rate case; therefore, it is not included in the currently authorized rates. This expense is expected to continue during wet periods while infiltration levels remain exaggerated. If that condition can be corrected, the utility believes the need for hauling effluent will cease. However, more recent information obtained from the utility indicates that the annual expense may actually exceed \$20,000 per year.

Wastewater collection systems inevitably convey a certain quantity of extraneous water that originates as groundwater or surface runoff. The utility believes that reducing the amount of infiltration will eventually eliminate the need for removal of effluent. However, our review provides no assurance that allowing the requested \$9,418 rate increase will be adequate for the long term. Nonetheless, since this \$9,418 increase is the rate relief requested by the utility, and since hauling of effluent appears to be the single aspect of the filing that qualifies for inclusion in a limited proceeding, we hereby approve the utility's request for a \$9,418 rate increase for the purpose explained above.

We, therefore, approve a \$.41 increase to TVU's residential and general service gallonage charge. As the present gallonage charge is \$1.95 per thousand gallons, the \$.41 increment will increase the charge to \$2.36. Increasing the gallonage charge is appropriate because the approved increase is for treatment-related costs. These costs are variable costs that are typically encompassed in the gallonage charge.

At this time, we cannot determine whether the utility's efforts to reduce infiltration and inflow will eliminate the need for trucking effluent. Therefore, we believe that the increased gallonage rate should be effective for at least one year. At the conclusion of that period, we shall review the utility's operating conditions and determine whether this charge should be retained, discontinued, or otherwise modified. Consequently, this docket shall remain open to monitor the need for the increased rate.

The approved gallonage rate shall be effective for meter readings on or after 30 days from the stamped approval date of the revised tariff sheets. Tariff sheets will not be approved until Staff verifies that the tariff sheets are consistent with this Commission's decision, a staff-approved notice of the new rates and charges has been sent to customers, and that no protest has been filed.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Tamiami Village Utility, Inc., is authorized to charge the new gallonage rate as set forth in the body of this Order. It is further

ORDERED that all of the 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 prior to its implementation of the new gallonage rate approved herein, Tamiami Village Utility, Inc. shall submit and have approved a proposed notice to its customers of the increased rate and the reason thereof. The notice will be approved upon Staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the gallonage rate approved herein, Tamiami Village Utility, Inc. shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon our Staff's verification that they are consistent with our decision herein and that the protest period has expired. It is further

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ORDERED that the rate increase approved herein shall be effective for meter readings taken on or after thirty (30) days from the stamped approval date on the revised tariff sheets. It is further

ORDERED that the need for this increase shall be subject to review on an annual basis. It is further

ORDERED that this docket remain open.

By ORDER of the Florida Public Service Commission, this 2nd day of November, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

SLE

By: Kay Flynn
Chief, Bureau of Records

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, Tallahassee, Florida 32399-0870, by the close of business on November 23, 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.