

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a staff- ) DOCKET NO. 900761-WS  
assisted rate case in Citrus ) ORDER NO. PSC-93-1778-FOF-WS  
County by LAKE UTILITIES, LTD. ) ISSUED: December 10, 1993  
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The following Commissioners participated in the disposition of this matter:

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

ORDER EXTENDING TIME FOR COMPLETING IMPROVEMENTS

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. In addition, this Order required the utility to include any documentation of these efforts, including any rejection letters, and to explain why its owners had not provided capital for expansion.

On June 10, 1992, the utility responded to the show cause Order asserting that it should not be fined because it had not willfully violated or knowingly refused to comply with Order No. PSC-92-0209-FOF-WS. Further, the utility asserted that it had made

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a good faith effort to obtain financing and had considered loans from lending institutions as well as the possibility of additional capital investments from investment firms to finance the required improvements. In its response, the utility also provided copies of three letters from lending institutions which denied loans. 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 require.

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, the Commission was concerned about the utility's failure to submit written loan applications to any of the three banks that it contacted. The utility was fined \$5,000. However, 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.

At the October 20, 1992, Agenda Conference, customer representatives expressed their concern that tax records indicated the land upon which the utility is located is owned by Century Realty Funds, Ltd., and not the utility. Based on this concern, Order No. PSC-92-1298-FOF-WS also required the utility to provide the Commission with documentation that it owns the land on which the facilities are located within 30 days of the issuance of the order.

Customer representatives met with Commission staff on November 20, 1992, to determine whether the various homeowners' associations served by the utility could reach an agreement to loan the utility the funds required for the upgrades. The meeting was also for the purpose of determining what specific upgrades were essential and possible using the funds in escrow. A consensus could not be reached for a customer loan to the utility. Subsequently, a second meeting was held on January 12, 1993. Seven customer representatives attended the second meeting along with the utility's vice president. It was determined that the utility would get bids and cost estimates for certain specific upgrades. The other pro forma plant improvements required by Order No. 24750 were to be eliminated.

At the March 16, 1993 Agenda Conference, it was determined that the utility had made a sufficient good faith effort to obtain financing. The utility had also submitted two legal documents, a purchase agreement and a quit claim deed, that confirmed the utility as the owner of the land on which the facilities are located. The parties had agreed on the following improvements to address the customers' most immediate concerns: installation of a 2500 gallon hydropneumatic tank; wiring of the well pumps so that the back-up pump would engage at 30 pounds per square inch; refurbishing of the existing lift stations; and installation of an exhaust silencer on the blower system at the wastewater plant. By Order No. PSC-93-0532-FOF-WS, issued April 7, 1993, the \$5,000 fine was suspended provided that the utility complete the plant improvements by October 6, 1993. Order No. PSC-93-0532-FOF-WS also adjusted the utility's rates to reflect the removal of pro forma plant because of the reductions in the upgrades required by previous Order No. 24750.

#### PRO FORMA PLANT IMPROVEMENTS

All pro forma improvements have been timely completed except for the hydropneumatic tank. Although the utility has purchased the tank, the utility has not yet obtained the necessary construction permit from the Department of Environmental Protection (DEP) to install the hydropneumatic tank. The utility submitted its permit application to DEP on May 7, 1993, and has responded to all of DEP's requests related to the application. DEP informed Commission staff that the permit has not been issued due to a heavy workload.

Based on the foregoing, we find that the failure to install the hydropneumatic tank was beyond the control of the utility and that it is necessary to allow additional time for the issuance of the permit and the installation of the hydropneumatic tank. Accordingly, we find it appropriate to allow the utility 30 days from the date DEP issues the construction permit to install the 2,500 gallon hydropneumatic tank. Further, based on our findings herein, we find it appropriate to continue the suspension of the \$5,000 fine assessed by Order No. PSC-92-1298-FOF-WS, and suspended by Order No. PSC-92-0532-FOF-WS based on the utility's good faith efforts to resolve the problems related to the needed plant upgrades.

MAY BILLING ERROR

By Order No. PSC-93-0532-FOF-WS, the Commission authorized rates which were lower than the temporary rates which had been in effect since the issuance of Order No. 24750. The rates and tariffs were approved on April 29, 1993 and were effective for meter readings taken 30 days on or after April 29, 1993.

On June 23, 1993, the utility submitted the May billing report which indicated that the utility had billed the higher temporary rates for the May consumption. On June 24, 1993, in response to a staff inquiry, the utility informed the Commission that meters had been read on May 31, 1993. Since the meters were read more than thirty days after the 29th of April, the lower rates approved by Order No. PSC-93-0532-FOF-WS should have been billed. The utility overcharged for May consumption by \$847.85, which the utility placed into the escrow account. The utility indicated the customers were entitled to a credit for the May excess charges and provided a copy of the billing register for review. The utility was instructed to draft a customer notice which explain the reason for the credit. In order to verify the refund via credits to the bills, the utility was also instructed to send copies of a sample of the July bills for 32 customers. On July 12, 1993, the utility submitted the copies of the customer bills which reflected the appropriate credit for the overcharge.

We find that the overcharge for May consumption was an inadvertent error or misunderstanding regarding the correct implementation date of the new rates. We find that the utility acted promptly to correct the overcharge and voluntarily applied a credit to the customer bills. In addition, the \$847.85 overcharge for the month of May was placed into the escrow account, and the utility has not had the use of the overcharge revenue. Accordingly, we find it appropriate to authorize the release of \$847.85 from the escrow account. Based on the foregoing, we find no basis to show cause the utility for overcharging the customers on the May billing.

RATE REDUCTION AFTER FOUR YEARS

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 at the end of the four-year period by the amount of rate case expense previously included in the rates. This statute applies to all rate cases filed on or after October 1, 1989.

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By Order No. PSC-93-0532-FOF-WS proforma plant costs were removed and the revenue requirement was reduced. The amount of rate case expense did not change. However, because the revenue requirement was decreased, the percentage of rate case expense included in revenues increased. This recalculation of the four year reduction in rates was erroneously omitted from Order No. PSC-93-0532-FOF-WS.

The water and wastewater rates shall each be reduced by \$338, as shown in Schedule No. 1. The revenue reductions reflect the annual rate case amount amortized plus the gross-up for regulatory assessment fees.

The utility shall file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. At that time, the utility shall also file a proposed "customer letter" setting forth the lower rates and the reason for the reduction. The four year reduction shall be a reduction from the original rates, which were approved for meter readings 30 days on or after July 24, 1991.

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.

#### DOCKET CLOSING

Upon completion of the installation of the tank, cost documentation shall be filed and disbursement from the escrow account will be authorized upon review of the documentation. Staff shall have administrative authority to close the docket after the processing of the docket is complete.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Lake Utilities, Ltd. shall have 30 days from the date the Department of Environmental Protection issues the construction permit to install the hydropneumatic tank. It is further

ORDERED that no later than one month prior to the actual date of the required rate reduction period, the utility shall file revised tariff sheets and a customer notice for staff's approval. It is further

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ORDERED that the \$847.85 of overcharges which have been credited to customers' accounts may be released from the escrow account. It is further

ORDERED that this docket may be administratively closed after the completion of the installation of the hydropneumatic tank and final disbursement of the escrow funds.

By ORDER of the Florida Public Service Commission, this 10th day of December, 1993.

  
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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.

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 Director, Division of Records and Reporting 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 sewer 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 after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.



FOUR YEAR RATE REDUCTION  
 RATE CASE EXPENSE AMORTIZATION

WATER

<u>Residential and General Service:</u>	<u>Final Rates</u>	<u>Approved Decrease</u>
5/8" x 3/4"	\$ 6.88	\$ .14
3/4"	10.32	.20
1"	17.20	.34
1 1/2"	34.40	.68
2"	55.04	1.08
3"	110.08	2.17
4"	172.00	3.39
6"	344.00	6.78
Gallonage Charge	\$ 1.03	\$ .02

WASTEWATER

<u>Residential:</u>	<u>Final Rates</u>	<u>Approved Decrease</u>
All Sizes	\$ 8.31	\$ .12
Gallonage Charge	\$ 2.48	\$ .03

<u>General Service:</u>	<u>Final Rates</u>	<u>Approved Decrease</u>
5/8" x 3/4"	\$ 8.31	\$ .12
3/4"	12.47	.17
1"	20.78	.29
1 1/2"	41.57	.58
2"	66.51	.92
3"	133.01	1.85
4"	207.83	2.89
6"	415.66	5.78
Gallonage Charge	\$ 2.98	\$ .04