

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for staff-) DOCKET NO. 910276-WS
assisted rate case in Volusia) ORDER NO. PSC-94-0449-FOF-WS
County by PINE ISLAND UTILITY) ISSUED: April 14, 1994
CORPORATION.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER SUSPENDING FINE AND SHOW CAUSE

BY THE COMMISSION:

BACKGROUND

Pine Island Utility Corp. (Pine Island or utility) is a Class C water and wastewater utility located in the northwestern portion of Volusia County. On June 6, 1990, Pine Island submitted an application for a staff assisted rate case. The documentation submitted by Pine Island concerning land ownership and plant assets was problematic. By Order No. 24132, issued February 18, 1991, this Commission closed the staff assisted rate case without granting rate relief. Pine Island re-submitted its application for a staff assisted rate case on March 4, 1991. On June 10, 1991, we issued Proposed Agency Action (PAA) Order No. 24643 which authorized Pine Island to collect increased rates. We assessed and conditionally suspended a \$500 per system fine for unsatisfactory quality of service, and we required Pine Island to comply with all outstanding requirements of the Department of Environmental Protection (DEP), including installing meters and providing security for the payment of power bills.

We received a timely protest to Order No. 24643 from the customers, and we set a hearing date. Prior to the hearing, Pine Island and its customers reached a settlement, and the customers withdrew their protest. Subsequently, by Order No. PSC-92-0126-AS-WS, issued March 31, 1992, the Commission approved Pine Island's settlement with its customers and "revived" Order No. 24643, making it final and effective. By Order No. PSC 92-0126-AS-WS, we also required Pine Island to install meters by September 30, 1992.

DOCUMENT NUMBER-DATE

03475 APR 14 94

FPSC-RECORDS/REPORTING

By Order No. PSC-93-0049-FOF-WS, issued January 13, 1993, we found that Pine Island had failed to satisfy the requirements for its water and wastewater systems; therefore, we reinstated the \$500 wastewater system fine, granted Pine Island until December 31, 1992, to install meters and to obtain permits for its water system, and we ordered Pine Island to show cause why it should not be fined for its continued failure to meet state and local requirements for its wastewater system.

Pursuant to Section 367.165, Florida Statutes, on December 29, 1992, the owner of Pine Island tendered his 60 day notice of abandonment. On July 15, 1993, the Volusia County Circuit Court, heard Pine Island's abandonment case and named Water Spectrum, Inc. as receiver.

On January 13, 1994, the Commission staff engineer visited Pine Island to determine whether the meters had been installed. We are informed that all meters, except one, have been installed.

The receiver discovered that one of the modular homes, located at 1675 Bass Ave., sits over a cement slab which extends over the system's water main. In order to install a separate meter for this customer's connection, Pine Island would have to install a by-pass around the back perimeter of the property. This by-pass would constitute a modification to the existing distribution system, and Pine Island would be required to obtain a construction permit from the Volusia County Public Health Unit (VCPHU). The application for the construction permit would require the review and seal of a professional engineer. After obtaining the permit, the construction of the by-pass would result in cutting and opening the main. Once the main was opened, approximately 25 customers would be required to boil water for a minimum of two days until bacteriological samples show that the system is free of contaminants.

RATES

Order No. PSC-92-0126-AS-WS approved Phase I and Phase II rates. The Phase I rates approved were a flat rate of \$11.51 for water and \$20.37 for wastewater. These rates were effective from April 8, 1992, through August 31, 1992, for non-metered residential customers. Phase II rates include a base facility and gallonage charge for metered residential customers which became effective October 1, 1992. As an incentive to install meters, Pine Island was to charge only the base facility charge if meters were not installed by October 1, 1992.

Pine Island's receiver has requested that the flat rate approved in the Phase I rates for water and wastewater be approved for the one remaining customer without a meter. The receiver has tabulated the necessary steps and submitted a cost estimate of \$2,030 if this remaining customer were to be metered. We find the installation cost prohibitive given the size of the customer base, and upon consideration, we find that the flat rate of \$11.51 for water and \$20.37 for wastewater is the appropriate rate for the residence of 1675 Bass Avenue, Seville, Florida. We calculated these flat rates using the same revenue requirement used for calculating the base facility and gallonage charge rates.

These rates will be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code. The rates may not be implemented until proper notice has been received by the customer. Pine Island shall provide proof of the date notice was given within 10 days after the date of the notice.

FINE

To reiterate, by Order No. PSC-92-0126-AS-WS, we gave Pine Island until September 30, 1992, to meet the requirements imposed by DEP. Pine Island had to satisfy water system problems cited in a Consent Agreement held by the VCPHU. Pine Island requested that the deadline be extended to December 31, 1992, to allow it additional time to install the meters and to obtain a prerequisite construction permit from VCPHU. By Order No. PSC-93-0049-FOF-WS, we granted Pine Island's request to extend the deadline to December 31, 1992, and we further suspended the \$500 water fine against Pine Island. Since the receiver's appointment, some progress has been made towards complying with the Consent Agreement.

The water system continues to be under a Consent Agreement. Pursuant the Consent Agreement, Pine Island has been required to do the following:

1. Install a properly sized hydropneumatic tank
2. Install a sufficient pump
3. Remove the 120 gallon, unpermitted hydropneumatic tank
4. Provide chemical analysis results as required by rule
5. Initiate a cross-connection control program
6. Provide backflow prevention devices
7. Provide tank with sight glass, gravity drain & by-pass
8. Provide a concrete pad around well casing

Since July 15, 1993, the receiver has installed a new pump, submitted the required chemical analysis results, and constructed

a concrete pad around the well casing. The installation of the hydropneumatic tank and the implementation of a cross-connection control program will satisfy the remaining violations. The receiver submitted an application to the VCPHU for a construction permit to install a hydropneumatic tank and its approval to install a 2 inch PVC water main. VCPHU returned the application with a Request for Additional Information and a demand for the proper filing fee.

Given the special circumstances the receiver faced upon appointment and the progress that has been made since that appointment, we find that it is appropriate to suspend the \$500 fine pending Pine Island's re-submission of a completed application along with the proper filing fee for a construction permit to install the hydropneumatic tank. This application shall be submitted within 60 days from the date of this Order. Pine Island shall also submit within 150 days of the date of this Order a detailed plan for correcting any remaining water deficiencies, including timetables for completion and means of financing. If Pine Island fails to comply with these requirements, the fine shall be reinstated.

SHOW CAUSE

As a result of Pine Island's non-compliance with Order No. 24643, we issued Order No. PSC-93-0049-FOF-WS, ordering Pine Island to Show Cause why it should not be fined for those violations. Pine Island failed to respond to our Show Cause Order because the prior owner abandoned the utility shortly after the Agenda Conference and immediately before the Order was issued. The court did not appoint a receiver until July 15, 1993.

The wastewater treatment plant remains under a Notice of Violation. Pine Island must still do the following:

1. Obtain a valid Operating Permit
2. Correct plant operations and/or treatment facilities to correct turbidity standards.
3. Provide adequate access control to WWTP
4. Upkeep of operation and maintenance log

In addition to the upgrades listed above, Order No. 24643 also required Pine Island to install a dual motor/blower assembly. The receiver has stated that he did not know about the wastewater Notice of Violation. We have confirmed that DEP did not contact the newly appointed receiver to inform him of the Notice of Violation. Pine Island must submit an application for a renewal of its wastewater operating permit.

Now that Pine Island has a receiver, we find it appropriate to give Pine Island another opportunity to correct the above wastewater violations within a reasonable period. Therefore, we hereby suspend the show cause proceedings for violations of previous Commission Orders. However, if Pine Island fails to comply with the requirements set forth herein, we may initiate future show cause proceedings against it.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Pine Island Utility Corporation's rates for its non-metered customer shall be \$11.51 for water and \$20.37 for wastewater. The approved rates will be effective for service rendered on or after the stamped approval date on the tariff sheets. It is further

ORDERED that, prior to the implementation of the approved rates, Pine Island Utility Corporation shall submit and have approved a proposed notice to its customer of the increased rates and the reasons thereof. The notice shall be approved upon Staff's verification that it is consistent with our decision herein. It is further

ORDERED that the \$500 fine is suspended pending Pine Island Utility Corporation's submission of a completed application with the proper filing fee to the Volusia County Public Health Unit for a construction permit within 60 days from the date of this Order, and Pine Island Utility Corporation's submission within 150 days a detailed plan for correcting any remaining water deficiencies that includes timetables for completion and means of financing. It is further

ORDERED that the show cause proceeding initiated by Order No. PSC-93-0049-FOF-WS is suspended. It is further

ORDERED that this docket shall remain open pending completion of all requirements listed herein or until Pine Island Utility Corporation files for a rate case requesting recovery of the costs necessary to meet these requirements.

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By ORDER of the Florida Public Service Commission, this 14th
day of April, 1994.

BLANCA S. BAYO, Director
Division of Records and Reporting

by: Kay J. [Signature]
Chief, Bureau of Records

(S E A L)

ELS

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.