

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for Revenue) DOCKET NO. 941270-SU
Neutral Wastewater Rate) ORDER NO. PSC-95-0967-FOF-SU
Restructuring in Lee County by) ISSUED: August 8, 1995
Forest Utilities, Inc.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF PROPOSED AGENCY ACTION ORDER AUTHORIZING RECOVERY OF
REGULATORY COMMISSION EXPENSES, ESTABLISHING RATES AND RATE
STRUCTURE, AND REQUIRING REGULATORY COMMISSION EXPENSE
AMORTIZATION

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and 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

On January 10, 1994, the Division of Consumer Affairs received a letter from Benson's, Inc. (Benson's), a management company acting on behalf of Terraverde 1, 2, and 3 Condominium Associations in Fort Myers (associations), requesting the Commission's assistance with the associations' complaint against the billing practice of Forest Utilities, Inc. (Forest or the utility). Benson's initially filed a complaint with the utility on November 23, 1993. Benson's enclosed letters previously written to Forest, and unanswered, in which it had challenged the application of the Residential Service rate schedule to individual units in the master-metered condominiums, and suggested that the General Service rate schedule would be more appropriate. The Residential Service rate schedule provides a flat rate, applicable to wastewater service for all purposes in private residences and individually metered apartment units. The General Service rate schedule provides a base facility and gallonage rate structure, applicable

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to any customer for which the Residential Service rate schedule does not apply. Benson's requested the Commission to specifically assist by "providing an order requiring the utility to refund all of the overcharges for each of our associations." The complaint was docketed in Docket No. 940950-SU.

In Order No. PSC-94-1461-FOF-SU, issued November 29, 1994, we denied Benson's' request that the Commission require Forest to reclassify the Terraverde 1, 2, and 3 Condominium Associations from the Residential Service tariff to the General Service tariff. We also stated in that order that Forest should not be required to make refunds to Benson's' clients, or others of its customers similarly situated, for payments remitted under the Residential Service tariff. However, we ordered Forest to file an application for a revenue-neutral rate restructuring, to be based upon a base facility and usage charge rate structure, with the Commission within 12 months of the issuance of the order.

Forest filed the required rate restructuring request with the Commission on November 4, 1994, which included a request to recover non-recurring expenses related to both the customer complaint (Docket No. 940950-SU) and this limited proceeding. However, the utility failed to pay the filing fee required by Rule 25-30.020(2)(g), Florida Administrative Code. On December 29, 1994, the utility submitted the required filing fee along with revised versions of the rate restructuring application to reflect the inclusion of the filing fee in "rate case expense" (regulatory commission expense) for the utility. In this order, we approve the requested rate restructuring with modifications and authorize the utility to recover regulatory commission expenses amortized over four years.

REGULATORY COMMISSION EXPENSES RECOVERY

Our Order No. PSC-94-1461-FOF-SU, issued in the complaint docket, required Forest to file an application for a revenue-neutral rate restructuring to be based upon a base facility and usage charge rate structure with the Commission within 12 months of the issuance of the order. This rate restructuring was required to bring more consistency to the utility's rate structure and to base those rates on metered water service.

Although we ordered the utility to file the limited proceeding as a revenue-neutral rate restructuring, we believe that requiring the utility to file such a request without giving consideration to and allowing the recovery of the expenses associated with the customer complaint and this limited proceeding would be confiscatory. As a result of the complaint and the ordered rate

restructuring filing, the utility has incurred substantial out-of-pocket costs. These costs include both legal and accounting expenses for the processing of the customer complaint and the limited proceeding, as well as the expenses of obtaining consolidated billing analyses from Florida Cities Water Company (Florida Cities) and Gulf Utility Company (Gulf).

Through the regulatory process, larger utilities may be able to treat such a complaint as a normal operating expense if such expenses occur in one system or another operated by them on a yearly or bi-yearly basis. Then, in any rate proceeding conducted before the Commission, those expenses are recognized through rates. However, for smaller utilities, such as Forest, a complaint of this magnitude is unusual. The utility has indicated that it does not expect such complaints to recur in the future and in fact, has never before been involved in such an extensive complaint proceeding.

The utility proposed in a letter dated December 29, 1994, that the only reasonable alternative to inclusion of these expenses in total as a yearly operating expense, is to amortize them over some reasonable period of time. We concur. Since the complaint docket expenses are to a great extent intertwined with the limited proceeding rate restructuring docket expenses, the utility believes that a four year amortization period is logical and appropriate. In this way, those expenses can be fully recovered and, as with rate case expense, after they are fully recovered, rates will be reduced in order to eliminate them from the utility's rate structure, avoiding excessive recovery. Since regulatory commission expenses of the present nature and magnitude were not previously recognized in rate setting, the recognition and amortization of the complaint and limited proceeding expenses over a four year period will allow the utility appropriate recovery of these expenses, avoiding over-recovery as would occur by including the total amount as a normal, yearly operating expense. Amortization is the more conservative treatment, and we concur with the utility that it is the appropriate treatment. We discuss the amortization requirement in more detail below.

As we have noted, the expenses of processing the complaint were virtually indistinguishable from the expenses of processing the limited proceeding. We believe, therefore, that recovery of these expenses is reasonable. We furthermore believe that these expenses were prudently incurred. We conclude that they must be recognized as and to the extent the utility requests. Inclusion of these expenses in the rate restructuring calculations causes an increase of .23% in the utility's residential flat-rates.

Upon request, the utility supplied supporting documentation for the requested "rate case expense," including an estimate of the expenses to complete this limited proceeding. The utility's "rate case expense," for both the complaint and the limited proceeding, was \$40,122. We find these expenses reasonable and prudently incurred. Meadowbrook Utility Systems, Inc. v. Florida Public Service Comm'n, 518 So. 2d 326, 327 (Fla. 1st DCA 1988). We find it appropriate, therefore, to authorize recovery of \$40,122 in regulatory commission expenses, amortized over four years for an annual expense of \$10,031. The components that make up "rate case expense" are as follows:

	<u>Limited Proceeding</u>	<u>Customer Complaint</u>	<u>Total</u>
Legal	\$ 8,135	\$10,632	\$18,767
Accounting	10,465	8,540	19,005
FPSC (filing fee)	1,000	0	1,000
Billing Analysis			
Florida Cities	150	0	150
Gulf	<u>1,200</u>	<u>0</u>	<u>1,200</u>
Total	<u>\$20,950</u>	<u>\$19,172</u>	<u>\$40,122</u>

RATES AND RATE STRUCTURE

As we have mentioned, in Order No. PSC-94-1461-FOF-SU, we stated that Forest shall file a revenue-neutral rate restructuring application within 12 months of the issuance of the order. We further stated that the restructuring must be based upon a base facility and usage charge rate structure. Because the utility's service territory crosses the boundary between two different water utilities, the current rates of the utility were established to differentiate between customers on the basis of the water company serving them.

Forest obtained quotations from the water companies of the costs of providing meter reading and billing services, as well as estimates of initial set-up charges, in respect to the Terraverde 1, 2, and 3 Condominium Associations. The estimated annual costs of meter reading and billing are approximately \$36,576 in total, with initial set-up charges of \$1,612. Because of the magnitude of these costs, we believe that it is not cost effective to implement usage based rates for the utility's residential customers. Accordingly, we find it appropriate that the flat rate basis shall continue to be applied to those private residences and individually metered customers presently classified to the residential service

tariff. The savings resulting from continued use of that methodology are substantial. Furthermore, that rate structure, under these specific circumstances, is non-discriminatory. The authorized residential flat rates have been calculated using the base facility charge determined for a 5/8 inch x 3/4 inch meter, and an average usage of 3.71 thousand gallons per customer.

However, we recognize that there are discrepancies in the billing treatment of multi-family customers that we need to address. Multi-family customers are billed using either the residential flat rate or the commercial base facility and gallonage rate, depending on which water utility, Florida Cities or Gulf, serves them. Those multi-family customers that lie within the Florida Cities service area are currently being billed using the general service tariff. Those in the Gulf service area are billed using the residential flat rate, because of the lack of usage data needed to bill these customers. We have determined that there are only 14 multi-family customers within Gulf's service area. Gulf has represented to our staff that it will supply Forest with the necessary usage data on a monthly basis at no charge. Gulf is already supplying Forest usage information for the 12 general service customers that lie within the Gulf service area. Therefore, we find it appropriate that Forest shall bill all multi-family customers, including those in Gulf's service area, using the base facility and usage charge structure. The multi-family customers shall be billed using a base facility charge based upon the meter size of the master meter serving the multi-family unit.

The restructured rates we approve herein are designed to produce revenues of \$527,274, an increase of \$10,504, or 2%, more than current revenues. This increase is for "rate case expense" grossed-up for the regulatory assessment fee. The utility shall be required to file revised tariff sheets and a proposed customer notice to reflect the approved restructured rates. The approved rates shall 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 utility shall be required to notice the customers within 14 days of our vote. Rule 25-22.029(2), Florida Administrative Code, provides that, in a proposed agency action proceeding, we may require a utility to serve written notice on its customers after agenda conference. We believe this is appropriate in this instance in order to provide the utility's customers with effective notice. The utility shall provide proof of the date notice was given within 10 days after the date of the notice. The rates shall not be implemented until proper notice has been received by the customers.

The utility's present rates, the utility's requested restructured rates, and the restructured rates we have approved are shown on Schedule No. 1.

AMORTIZATION OF REGULATORY COMMISSION EXPENSES

In a letter dated December 29, 1994, Forest requested that we treat the non-recurring expenses in issue as rate case expense, and allow it to amortize and recover them over a four year period. Forest further proposed that rates be reduced after the four year period in order to avoid excessive recovery of these expenses. We have already noted our approval of the utility's proposal. Therefore, we find it appropriate to order that the rates approved herein shall be reduced immediately following the expiration of the four year period by the amount of "rate case expense," or regulatory commission expense, authorized in the rates. The reduction will reflect the removal of revenues associated with the amortization of "rate case expense" and the gross-up for regulatory assessment fees, which is \$10,504 for each of the four years. The reduction in revenues will result at that time in the imposition of the rates in Schedule No. 2.

The utility shall be required to file revised tariffs no later than one month prior to the actual date of the required rate reduction. The utility also shall be required to file a proposed customer notice setting forth the lower rates and reason for the reduction.

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 for the reduction in the rates due to the amortized rate case expense.

Upon expiration of the protest period, if a timely protest is not received, this docket shall be closed upon the utility's filing of and our staff's approval of revised tariff sheets.

Based on the foregoing, it is, therefore

ORDERED by the Florida Public Service Commission that Forest Utilities, Inc., is hereby authorized to recover regulatory commission expenses as set forth in the body of this Order. It is further

ORDERED that Forest Utilities, Inc., shall implement the rate structure set forth in the body of this Order. It is further

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ORDERED that Forest Utilities, Inc., is hereby authorized to charge rates for wastewater services as set forth in the body of this Order. It is further

ORDERED that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that all matters contained in the schedules attached hereto are by reference incorporated herein. It is further

ORDERED that Forest Utilities, Inc., shall be required to file revised tariff sheets and a proposed customer notice to reflect the rates herein approved. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date on the tariff sheets. It is further

ORDERED that Forest Utilities, Inc., shall provide notice to its customers within 14 days of the Commission's vote in this matter. It is further

ORDERED that the approved rates shall not be implemented until proper notice has been received by the utility's customers. It is further

ORDERED that Forest Utilities, Inc., shall provide proof to the Commission of the date notice was given to its customers within 10 days of the date of the notice. It is further

ORDERED that Forest Utilities, Inc., shall recover the regulatory commission expenses as set forth in the body of this Order through amortization over a four-year period. It is further

ORDERED that Forest Utilities, Inc., shall reduce its rates for wastewater services upon completion of amortization as set forth in the body of this Order. It is further

ORDERED that upon the completion of amortization, Forest Utilities, Inc., shall file revised tariffs reflecting the required reduction in rates and a proposed customer notice as set forth in the body of this Order not later than one month before the required reduction in rates. It is further

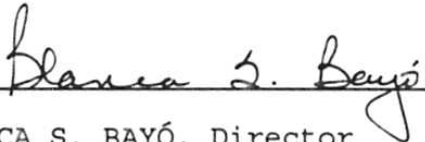
ORDERED that, if Forest Utilities, Inc., files revised tariffs reflecting the required reduction in rates in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease,

and for the reduction in the rates due to the amortized rate case expense. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective unless an appropriate petition, in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings or Judicial Review" attached hereto. It is further

ORDERED that in the event this Order becomes final, this Docket shall be closed upon the utility's filing of and staff's approval of revised tariff sheets.

By ORDER of the Florida Public Service Commission, this 8th day of August, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

Commissioners J. Terry Deason and Joe Garcia dissented on the issue of regulatory commission expense recovery.

(S E A L)

CJP

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.

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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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 29, 1995.

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 substantially 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.

UTILITY: FOREST UTILITIES, INC.
 COUNTY: LEE
 DOCKET NO. 941270-SU
 TEST YEAR ENDED: DECEMBER 31, 1993

Schedule No. 1

RATE SCHEDULE
 WASTEWATER
Monthly Rates

	<u>Current</u>	<u>Utility Proposed</u>	<u>Commission Approved</u>
<u>Residential</u>			
Flat Rate	\$23.18		\$23.23
Base Facility Charge: (all meter sizes)		\$12.48	
Gallorage Charge/M Gal. (Maximum 10,000 gallons)		\$3.20	
<u>Multi-Family</u>			
Flat Rate (Gulf Service Area)	\$23.18		
Base Facility Charge (Fl. Cities Service Area):			
Meter Size:			
5/8" x 3/4"	\$12.58		\$12.55
3/4"	\$18.87		\$18.83
1"	\$31.42		\$31.38
1-1/2"	\$62.85		\$62.76
2"	\$100.57		\$100.42
Gallorage Charge/M Gal. (No Maximum)	\$2.42		\$3.45
Base Facility Charge (per unit)		\$9.98	
Gallorage Charge/M Gal. (No Maximum)		\$3.76	
Base Facility Charge (per meter equivalent)			
Meter Size:			
5/8" x 3/4"			\$12.55
3/4"			\$18.83
1"			\$31.38
1-1/2"			\$62.76
2"			\$100.42
Gallorage Charge/M Gal. (No Maximum)			\$3.45
<u>General Service</u>			
Base Facility Charge:			
Meter Size:			
5/8" x 3/4"	\$12.58	\$12.48	\$12.55
3/4"	\$18.87	\$18.72	\$18.83
1"	\$31.42	\$31.20	\$31.38
1-1/2"	\$62.85	\$62.40	\$62.76
2"	\$100.57	\$99.84	\$100.42
Gallorage Charge/M Gal. (No Maximum)	\$2.42	\$3.76	\$3.45
<u>Typical Residential Bills</u>			
5/8" x 3/4" meter			
3,000 Gallons	\$23.18	\$22.08	\$23.23
5,000 Gallons	\$23.18	\$28.48	\$23.23
10,000 Gallons	\$23.18	\$44.48	\$23.23

UTILITY: FOREST UTILITIES, INC.
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Schedule No. 2

RATE SCHEDULE

Schedule of Rate Decrease After Expiration of
Amortization Period for Rate Case Expense

Wastewater

Monthly Rates

	<u>Commission Approved Rates</u>	<u>Rate Decrease</u>
<u>Residential</u>		
Flat Rate	\$23.23	\$0.46
<u>Multi-Family and General Service</u>		
Base Facility Charge (meter size):		
5/8"x3/4"	\$12.55	\$0.25
3/4"	\$18.83	\$0.38
1"	\$31.38	\$0.63
1-1/2"	\$62.76	\$1.26
2"	\$100.42	\$2.01
Gallonge Charge, per 1,000 gallons	\$3.45	\$0.07