

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for a rate) DOCKET NO. 950387-SU
increase for North Ft. Myers) ORDER NO. PSC-96-0038-FOF-SU
Division in Lee County by) ISSUED: January 10, 1996
Florida Cities Water Company -)
Lee County Division.)
_____)

The following Commissioners participated in the disposition of this matter:

JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER ACKNOWLEDGING FLORIDA CITIES WATER COMPANY -- NORTH FT.
MYERS DIVISION'S NOTICE TO IMPLEMENT RATES
IN PAA ORDER NO. PSC-95-1360-FOF-SU ON AN INTERIM BASIS,
SUBJECT TO REFUND, AND PROVIDING FOR SECURITY

BY THE COMMISSION:

Background

Florida Cities Water Company (FCWC or utility) is a Class A utility that provides water and wastewater service to a northern division and a southern division in Ft. Myers, Florida. On May 2, 1995, the utility filed an application for increased rates pursuant to Section 367.081, Florida Statutes, for its North Ft. Myers division. However, the application did not satisfy the minimum filing requirements (MFRs) and submission of additional data was necessary. The missing information was received on May 19, 1995, and this date was recognized as the official date of filing pursuant to Section 367.083, Florida Statutes. The utility's last rate case was finalized on July 1, 1992, by Order No. PSC-92-0594-FOF-SU, Docket No. 910756-SU. In 1994, the utility's rates were increased due to an index proceeding. The utility asked the Commission to process the instant rate application pursuant to the proposed agency action (PAA) procedures identified in Section 367.081(8), Florida Statutes.

The test year for this proceeding is the twelve-month period ending December 31, 1995. This period is based upon actual costs for the historical base year ended December 31, 1994, with applicable adjustments. During the base year, the utility's wastewater revenues were \$2,085,157 with a corresponding net operating income of \$474,319.

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FPSC-RECORDS/REPORTING

On November 2, 1995, the Commission by PAA Order No. PSC-95-1360-FOF-SU proposed to grant final rates and charges to FCWC which would generate operating revenues of \$2,489,487 resulting in a corresponding net operating income of \$718,465. That Order reviewed the quality of service, rate base, cost of capital, net operating income, revenue requirement, rates and charges, and the books and records of the North Ft. Myers division and proposed to establish final rates and charges. The Order stated that all provisions would become final and the docket closed unless an appropriate petition was filed, and upon staff's verification of proof of notice to the customers, and the filing of revised tariff sheets.

On November 27, 1995, Cheryl L. Walla (Ms. Walla) and others, timely filed a Petition on Proposed Agency Action, wherein they requested a Section 120.57, Florida Statutes hearing. On December 1, 1995, FCWC filed a Notice of Intent to Implement Rates, along with revised tariff sheets, a proposed customer notice, and a corporate undertaking of Florida Cities Water Company.

Utility's Notice to Implement Rates

As discussed earlier, PAA Order No. PSC-95-1360-FOF-SU was protested by Ms. Walla and others. On December 1, 1995, FCWC submitted its Notice of Intent to Implement Rates pursuant to Section 367.081(8), Florida Statutes, pending the resolution of the protest filed in this docket. The utility also submitted tariff sheets, a proposed customer notice, and corporate undertaking to secure any potential refund.

Section 367.081(8), Florida Statutes, states that:

[I]f the commission's action is protested by a party other than the utility, the utility may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund, upon notice to the commission and upon filing the appropriate tariffs.

Although the utility has the right to implement its requested final rates, FCWC has elected to implement the proposed rates contained in PAA Order No. PSC-95-1360-FOF-SU. These rates are lower than the rates requested by the utility.

Based upon our review of the tariff sheets, customer notice, and security provided by the utility, we find that the utility has met the requirements of Section 367.081(8), Florida Statutes. Therefore, the tariff sheets are approved and shall become effective, provided that the customers have received a copy of the

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notice informing them of a change in rates in accordance with Rule 25-30.475, Florida Administrative Code.

In consideration of the foregoing, we hereby acknowledge the utility's implementation of the PAA rates set forth in Order No. PSC-95-1360-FOF-SU on an interim basis subject to refund, pending the outcome of this rate proceeding.

Proper Security

Section 367.081(8), Florida Statutes, allows the utility to place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund. In addition, Section 367.081(6), Florida Statutes, specifies that the utility shall keep accurate, detailed accounts of all amounts received because of such rates becoming effective under bond, escrow, or corporate undertaking subject to refund, specifying by whom and in whose behalf such amounts were paid.

PAA Order No. PSC-95-1360-FOF-SU, approved an increase in revenues of \$377,772. We calculated the potential refund for FCWC's North Ft. Myers division to be \$261,595. On December 1, 1995, the utility filed a corporate undertaking in the amount of \$261,595. Upon consideration, we find that the corporate undertaking filed by the utility is sufficient. The corporate undertaking shall be adopted as the security for the increased revenues collected under the PAA rates contained in Order No. PSC-95-1360-FOF-SU. Additionally, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that Florida Cities Water Company -- North Ft. Myers Division's Notice of Implementation of Rates set forth in Order No. PSC-95-1360-FOF-SU, on an interim basis, subject to refund, pending the outcome of this proceeding, is hereby acknowledged as set forth in the body of this Order. It is further

ORDERED that the tariff sheets shall become effective, provided that the customers have received a copy of the notice informing them of a change in rates in accordance with Rule 25-30.475, Florida Administrative Code. It is further

ORDERED that the corporate undertaking, filed by Florida Cities Water Company - North Ft. Myers, dated December 1, 1995,

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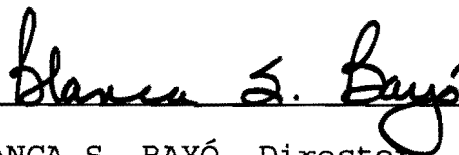
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shall be adopted as the security for the additional revenues collected under the proposed agency action rates contained in Order No. PSC-95-1360-FOF-WS. It is further

ORDERED that, pursuant to Rule 25-30.360(6), Florida Administrative Code, Florida Cities Water Company - North Ft. Myers Division shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. It is further

ORDERED that this docket shall remain open pending the outcome of this proceeding.

By ORDER of the Florida Public Service Commission, this 10th day of January, 1996.



BLANCA S. BAYÓ, 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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.038(2), Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) 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 wastewater utility. A motion for reconsideration shall be filed with the Director, Division of Records and Reporting, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.