

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Investigation into) DOCKET NO. 920010-WU
appropriate rate level for water) ORDER NO. PSC-97-0191-FOF-WU
service by JASMINE LAKES) ISSUED: February 19, 1997
UTILITIES CORPORATION in Pasco)
County.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER CLOSING DOCKET

BY THE COMMISSION:

Jasmine Lakes Utilities Corporation (Jasmine Lakes or utility) is a Class B utility, which provides water and wastewater services to over 1,500 residential customers and approximately 35 commercial customers in New Port Richey, Florida. According to the utility's 1995 annual report, Jasmine Lakes had operating revenues of \$421,520 and net operating income of \$33,456 for the water system and operating revenues of \$329,899 and net income of \$36,341 for the wastewater system. Jasmine Lake's service area is located in the Northern Tampa Bay Water-Use Caution Area in the South Florida Water Management District.

In July 1990, Jasmine Lakes acquired the assets of Jasmine Lakes Service, Inc. We approved the transfer of assets by Order No. 23728, issued November 7, 1990, in Docket No. 900291-WS. The utility purchases water from Pasco County (county) for resale to its customers. In April 1989, the county increased its bulk purchase water rate from \$1.99 per thousand gallons to \$2.37 per thousand gallons. The previous owner, however, failed to pass the increase through to the customers. On December 20, 1990, Jasmine Lakes filed an application for a limited proceeding water rate increase to recover the bulk water cost increase, which we opened in Docket No. 901000-WU. Under the provisions of Section 367.081(4)(b), Florida Statutes, the utility was barred at that time from recovering the April 1989 cost increase by the pass-through mechanism because the increase was initiated more than 12 months before. By Order No. 24275, issued March 25, 1991, we

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approved a revenue increase in the amount of \$36,933 based on a new rate of \$3.33 per thousand gallons for water. The increased rate became effective on April 16, 1991.

On November 12, 1991, the county informed us that since August 1990 Jasmine Lakes had refused to pay for any of the water it received from the county, claiming that the county's rates discriminated against wholesale users. On July 19, 1991, the county initiated a lawsuit against Jasmine Lakes to recover the disputed amount, which as of September 29, 1991, totaled \$251,628.85, including \$16,076 in interest.

The utility failed to advise us that it was not paying the county when it requested the limited proceeding increase to cover the increased cost of purchased water. Moreover, Jasmine Lakes began charging its customers the rates that were approved in the limited proceeding for the county's bulk water increase, while continuing to refuse to pay the county for the purchased water it received. As a result, our staff opened this investigation docket on January 3, 1992.

On February 24, 1992, we issued Order No. 25790, finding the revenue increase of \$36,933 granted in Order No. 24275 subject to refund on a prospective basis beginning February 4, 1992. On April 28, 1992, we issued Order No. PSC-92-0260-FOF-WU, finding that we had the authority to make all increase-related revenues approved in Order No. 24275 subject to refund, that is to say, those collected as of April 16, 1991, the date the new rates went into effect. In Order No. PSC-92-0700-FOF-WU, issued July 22, 1992, on reconsideration, we modified the refund period to begin with May 1991. We required Jasmine Lakes to provide a bond, letter of credit or escrow agreement as a guarantee of any potential refunds of water revenues collected. The utility elected to escrow revenues related to the increase. It submitted monthly reports of the escrow account as required by the escrow agreement.

On June 22, 1992, the utility filed a rate case, which was opened in Docket No. 920148-WS and processed pursuant to Section 367.081(8), Florida Statutes. By Order No. PSC-93-0027-FOF-WS, issued January 5, 1993, we proposed granting Jasmine Lakes increases in its water and wastewater rates, which reflected the county's prevailing bulk service rate. Upon protest by the Office of Public Counsel, the utility implemented the proposed agency action rates on March 7, 1993. On November 18, 1993, following a formal administrative hearing, we issued Order No. PSC-93-1675-FOF-WS, among other things, approving rates and charges and requiring

refunds of 15.82 and 14.41 percent of the proposed agency action water and wastewater revenues, respectively, billed between March 7, 1993 and implementation of final rates.

On July 15, 1996, Jasmine Lakes advised us that it had reached a settlement with the county's administration, which the Pasco County Board of County Commissioners approved. Under the settlement, the utility is required to pay over the next seven years all of the back charges for bulk water service owed to the county at the rates previously billed, amounting to \$796,987.23. The agreement is conditioned upon our release of the escrowed funds. As of June 30, 1996, the balance in the escrow account set up in accordance with Order No. 25790 was \$138,563 and the balance in the escrow account set up in accordance with Order No. PSC-92-0700-FOF-WU was \$30,123, a total balance of \$168,686. The utility and the county at or about the same time entered into a bulk water supply agreement under which the utility would purchase bulk water prospectively at a rate of \$1.99 per thousand gallons, a reduction of \$0.37.

In the pendency of the county's lawsuit, Jasmine Lakes filed three price index rate adjustments for 1993, 1994, and 1995. However, the utility did not implement those index increases. On July 4, 1996, Jasmine Lakes filed its 1996 price index rate increase and the purchased water pass-through rate decrease with rates effective for service rendered on or after September 8, 1996. On July 15, 1996, having reached a settlement of the litigation with the county, Jasmine Lakes proposed to implement the indexes for 1993, 1994, 1995 and 1996 all at once, together with the negative pass-through for the county's bulk water service rate reduction, which was effective April 1, 1996.

On September 23, 1996, we issued Order No. PSC-96-1203-FOF-WU, in which we approved rates as proposed by the utility and required the utility to make refunds to current customers who also were customers in the period January 1992 through February 1993 in the amount of \$16,355 plus interest at the rate earned by the escrow account, 2.5 percent. In January 1992, the county had reduced its bulk water rate from \$2.37 to \$2.19 per thousand gallons. The utility, however, continued to charge its customers the rate authorized in the limited proceeding (Docket No. 901000-WU), which was based on a \$2.37 bulk water charge. As noted, on March 7, 1993, the utility implemented proposed agency action rates pursuant to Order No. PSC-93-0027-FOF-WS, which we finalized by Order No. PSC-93-1675-FOF-WU. Additionally, we ordered that any undistributable portion of the refund be credited to the utility's contributions-in-aid-of-construction account. We also ordered that the remaining portion of the escrow fund be released to the utility

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to be applied towards discharge of its delinquent account with the county. We issued Amendatory Orders Nos. PSC-96-1203A-FOF-WU and PSC-96-1203B-FOF-WU on October 2 and 23, 1996, to clear scrivener's errors. The docket remained open to allow the staff to verify that all refunds had been made.

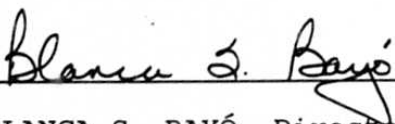
On October 3, 1996, the utility advised the staff that it had determined that \$12,492.45, including interest at the rate earned by the escrow account, would be refunded to the class of the utility's current customers who were also its customers in the period January 1992 through February 1993. This class of the utility's current customers represents 69 percent of all of its current customers. The utility proposed to make the refunds through credits to the customers' accounts as soon as Order No. PSC-93-1203-FOF-WU as amended became final. In addition, the utility had determined that \$5,825.15, the amount of the undistributable refund, would be credited to its contributions-in-aid-of-construction account.

The utility has completed the refund in full compliance with Order No. PSC-96-1203-FOF-WU and Rule 25-30.360, Florida Administrative Code. We find that nothing more is to be done in this docket. Therefore, we order that it shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 19th day of February, 1997.



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 120.569(1), 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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 after the issuance 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.