

MEMORANDUM

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FEBRUARY 21, 1997

FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (VACCARO) *OV/AS*
RE: DOCKET NO. 961475-SU - APPLICATION FOR LIMITED PROCEEDING
INCREASE IN WASTEWATER RATES BY FOREST HILLS UTILITIES,
INC. IN PASCO COUNTY.

0307107

Attached is an ORDER GRANTING EMERGENCY, TEMPORARY RATES SUBJECT TO REFUND, with an attachment, to be issued in the above-referenced docket. (Number of pages in Order - 7)

TV/mw

Attachment

cc: Division of Water and Wastewater (Austin, Groom)

I: 961475OR.TV

Attachment Not in-house

2 marked

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Application for limited) DOCKET NO. 961475-SU
proceeding increase in) ORDER NO. PSC-97-0207-FOF-SU
wastewater rates by Forest Hills) ISSUED: February 21, 1997
Utilities, Inc. 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 GRANTING EMERGENCY, TEMPORARY RATES SUBJECT TO REFUND

BY THE COMMISSION:

BACKGROUND

Forest Hills Utilities, Inc. (Forest Hills or utility) is a Class B utility that provides water and wastewater service in Pasco County. Forest Hills serves approximately 2,200 water and 1,100 wastewater customers. The wastewater system had revenues totaling \$210,688 in 1995. The utility serves an area that has been designated by the Southwest Florida Water Management District as a water use caution area.

On December 12, 1996, Forest Hills filed an application, pursuant to Section 367.0822, Florida Statutes, for a limited proceeding to increase its wastewater rates. This increase in wastewater rates is based upon the Florida Department of Environmental Protection's (DEP) required interconnection of Forest Hills' wastewater system to Pasco County's wastewater treatment facilities and the resulting increase in cost of sewage operations.

In recent years, problems with the utility's sewage treatment facilities have grown to a point requiring discussions with DEP to find solutions to allow continued wastewater treatment services. On February 12, 1993, Forest Hills entered into a stipulated settlement agreement with DEP. Under the terms of the stipulated settlement agreement, the parties agreed that Forest Hills could choose one of two possible solutions to DEP requirements: (1) renovate and or "reconstruct" the "existing" treatment plant which may include the idea of constructing an entirely new plant; or (2)

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connect the utility to an outside regional, county or municipal system and terminate the operation of the existing wastewater treatment plant. Both parties agreed that connection to an outside county or municipal system was the preferred solution and that it must be completed by 182 weeks (June, 1996) from the date of the agreement, February 12, 1993.

In mid 1994, Forest Hills learned that Pasco County was planning an extension of its US-19 force main to a point contiguous to Forest Hills' service area. Therefore, Forest Hills opened negotiations for a bulk wastewater agreement. Prior to these negotiations, Forest Hills and the City of Tarpon Springs had negotiated a draft bulk service agreement. However, the agreement was rejected by the Tarpon Springs City Council.

In April, 1995, Forest Hills signed a bulk wastewater treatment service agreement with Pasco County, which was approved by the County Commission on April 4, 1995. Under the terms of the agreement (25 year term), Pasco County would extend its force main and build a master pump station. Forest Hills would construct a force main from its system to the master pump station and reimburse the County for its prorata share of costs, in the amount of \$100,000. The County would treat up to .225 million gallons per day based on annual average daily flow. Forest Hills would also pay for the cost and installation of a flow meter. The utility would pay the County's bulk rate which is currently \$3.23 per 1,000 gallons.

In mid November, 1996, Pasco County and Forest Hills completed their facilities for this interconnection. The utility states that because of the discrepancy between the cost of purchase sewage treatment and the utility's existing rates, Forest Hills cannot afford under any circumstances to go forward with the interconnection until such emergency rates are granted.

EMERGENCY, TEMPORARY RATES

As discussed earlier, Pasco County and Forest Hills have completed all construction necessary for the interconnection and prepared to immediately discontinue use of the utility's wastewater treatment plant. By letter dated November 20, 1996, DEP recognizes that construction was complete as of November 20, 1996, and they are threatening the utility with fines should the utility not immediately interconnect with Pasco County.

Pursuant to Section 367.0822, Florida Statutes, Forest Hills filed this limited proceeding to increase its wastewater rates to recover the added cost for the wastewater interconnection with

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Pasco County. The added cost relates to construction of the interconnection between the existing wastewater collection facilities, retiring the existing wastewater treatment facilities and the changes in expenses that result from this change in mode of operations. Therefore, we realize the immediate need for the emergency rates. Forest Hills is at risk of incurring fines from DEP for everyday that the utility does not interconnect with Pasco County. Forest Hills is ready and able to interconnect to Pasco County immediately.

Although Chapter 367, Florida Statutes, does not expressly authorize "emergency" rates, Section 367.011, Florida Statutes, provides that this Commission has exclusive jurisdiction over a utility's rates. Further, we have granted similar emergency rates in previous limited proceeding dockets. By Order Nos. PSC-92-0127-FOF-SU and 25711, issued March 31, 1992 and February 12, 1992, in Dockets Nos. 911146-SU and 911206-SU, respectively, we granted emergency rates to Aloha Gardens Wastewater System and Mad Hatter Utility, Inc. In both dockets, the purpose of the emergency rates was for the payment of bulk wastewater treatment by Pasco County, following DEP required interconnection to the county.

We have also granted emergency rates to Ortega Utility Company by Order No. 25685, issued February 4, 1992, in Docket No. 911168-WS, and to Betmar Utilities, Inc. by Order No. 93-0525-FOF-WU, issued April 7, 1993, in Docket No. 910963-WU.

In consideration of the foregoing, we find it appropriate to approve the utility's tariff request for emergency wastewater rates, subject to refund, until we make our final decision. We have reviewed the filing and believe it is reasonable and necessary to require further explanation regarding the request for increased rates.

The tariffs filed by Forest Hills 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, provided the customers have received notice. The rates shall not be implemented until proper notice has been received by the customers. The utility shall provide proof of the date notice was given within 10 days after the date of the notice.

A comparison of the utility's original rates and requested emergency rates are shown on Schedule No. 1.

APPROPRIATE SECURITY

The excess of emergency rates over the previously authorized rates shall be collected subject to refund with interest. The amount of potential refund in this case cannot be accurately calculated. Therefore, the utility shall deposit in the escrow account each month the difference in revenue between the emergency rates and the previously approved rates. In addition, the escrow agreement shall only allow for withdrawals by the utility for payments to Pasco County for bulk wastewater service. Under no circumstances shall the utility be allowed to withdraw any amount of monies except for payments to Pasco County for bulk wastewater service.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating in detail the total amount collected from its wastewater customers, the additional revenue collected through the emergency rates and the amount of the withdrawals to Pasco County, all on a monthly and total basis.

The escrow agreement shall be established between the utility and an independent financial institution pursuant to a written escrow agreement. This Commission shall be a party to the written escrow agreement and a signatory to the escrow account. The written escrow agreement shall state the following: That the account is established at the direction of the Commission for the purpose set forth above; that withdrawals of funds to pay only Pasco County for bulk wastewater service each month can occur without the prior approval of the Commission; that the account shall be interest bearing; that the Director of Records and Reporting must be signatory to the escrow agreement; that all information concerning the escrow account shall be available from the institution to the Commission or its representative at all times; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d. DCA 1972), escrow accounts are not subject to garnishments.

If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.

In no instance shall maintenance and administrative costs associated with any refund be borne by the customers. The costs are the responsibility of, and shall be borne by, the utility.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Forest Hills Utilities, Inc.'s petition for authorization to implement emergency, temporary rates, subject to refund, is approved as set forth in the body of this Order. It is further

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

ORDERED that prior to its implementation of the rates approved herein, Forest Hills Utilities, Inc. shall submit and have approved a proposed notice to its customers of the emergency rates and the reasons therefor. The notice will be approved upon staff's verification that it is consistent with our decision herein. It is further

ORDERED that prior to its implementation of the emergency rates approved herein, Forest Hills Utilities, Inc. shall submit and have approved revised tariff pages. The revised tariff pages will be approved upon staff's verification that the pages are consistent with our decision herein. It is further

ORDERED that the rates approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff pages, pursuant to Rule 25-30.475, Florida Administrative Code, provided the customers have received notice. It is further

ORDERED that Forest Hills Utilities, Inc. shall provide proof that customers have received notice within 10 days of the date of notice. It is further

ORDERED that Forest Hills Utilities, Inc. shall escrow the rates approved herein as guarantee of any potential refund of these temporary emergency rates, subject to refund. Also, pursuant to Rule 25-30.360(6), Florida Administrative Code, Forest Hills Utilities, Inc. 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.

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By ORDER of the Florida Public Service Commission, this 21st
day of February, 1997.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(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 this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, 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.

Utility: Forest Hills Utilities, Inc.
County: Pasco
Docket No. 961475-SU
Test Year Ended: July 31, 1996

Schedule No. 1

Rate Schedule

Wastewater

Monthly Rates

**Commission
 Approved
 Emergency
 Rates**

Residential

Base Facility Charge: All Meter Sizes:	\$9.24	\$18.80
Gallonge Charge, per 1,000 Gallons (Wastewater Cap - 10,000 Gallons)	\$1.29	\$2.62

Commercial

Base Facility Charge: Meter Sizes:		
5/8" x 3/4"	\$9.24	\$18.80
1"	\$23.09	\$46.98
1-1/2"	\$45.83	\$93.25
2"	\$73.91	\$150.38
3"	\$147.81	\$300.75
4"	\$230.93	\$469.87
6"	\$461.92	\$939.87
Gallonge Charge, per 1,000 Gallons	\$1.29	\$2.62

Typical Residential Bills

5/8" x 3/4"		
3,000 Gallons	\$13.11	\$26.66
5,000 Gallons	\$15.69	\$31.90
10,000 Gallons (Maximum) (Wastewater Cap - 10,000 Gallons)	\$22.14	\$45.00