

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for limited proceeding to implement two-step increase in wastewater rates in Pasco County by Lindrick Service Corporation.

DOCKET NO. 980242-SU  
ORDER NO. PSC-99-1010-PCO-SU  
ISSUED: May 20, 1999

The following Commissioners participated in the disposition of this matter:

JOE GARCIA, Chairman  
J. TERRY DEASON  
SUSAN F. CLARK  
JULIA L. JOHNSON  
E. LEON JACOBS, JR.

ORDER GRANTING EMERGENCY RATES

BY THE COMMISSION:

CASE BACKGROUND

Lindrick Service Corporation (Lindrick or utility) is a Class B utility in Pasco County. According to the utility's annual report, for the year ended December 31, 1997, the utility provided water and wastewater services for approximately 2,283 water customers and 2,203 wastewater customers.

Lindrick's last rate case was finalized on November 16, 1983, by Order No. 12691, in Docket No. 830062-WS. By that order, rate base was established and the return on equity was set at 14.38 percent for both water and wastewater. In Docket No. 860089-SU, we initiated an overearnings investigation and lowered rates for the wastewater system only. Pursuant to Order No. 16142, issued May 23, 1986, the return on equity was lowered to 12.65 percent for the wastewater system. We approved index and pass-through increases in both March and December of 1995.

By Order No. PSC-97-1501-FOF-WS, issued November 25, 1997, we addressed Lindrick's 1995 earnings level and the disposition of wastewater revenues collected subject to refund. Based on a revenue deficiency of \$81,594 for the water system and a revenue

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excess of \$26,910 for the wastewater system, we found that on a combined basis the company had a \$54,684 revenue deficiency. The customers and service area are virtually the same for both water and wastewater, and Lindrick as a whole was earning below its authorized rate of return. We also found that the interest of both the customers and the utility would be best served by allowing the utility to offset the overearnings in the wastewater system by the underearnings in the water system.

On February 12, 1998, Lindrick filed an application, pursuant to Section 367.0822, Florida Statutes, for a limited proceeding to increase its wastewater rates. This requested increase in wastewater rates is based upon the Florida Department of Environmental Protection's (DEP) Notice of Violation and Orders for Corrective Action issued on January 13, 1998, and the resulting increase in cost for wastewater operations. In the Notice of Violation and Orders for Corrective Action, DEP requires Lindrick to eliminate intrusion/infiltration into Lindrick's collection system and to meet the effluent limits of the permit or initiate actions that will cease surface water discharge into Cross Bayou.

Lindrick decided to take its wastewater treatment plant off line, ceasing surface water discharge, and send the raw influent to the City of New Port Richey in order to comply with DEP's requirements. The City of New Port Richey then sends the treated wastewater to Pasco County's reuse system. Influent chloride is an inherent problem for Lindrick, given the location of its service area and the age of the system. The Gulf Harbors and Sea Forest Communities were created over 40 years ago by dredging and filling in the Gulf of Mexico. The clay tile wastewater collection system is literally submerged in salt water under high tide conditions and infiltration of some salt water into the system through the aging pipes is unavoidable.

Because reuse water is primarily used for irrigation and excess chlorides are detrimental to plant life, the Pasco County reuse system limits the chloride level of the water entering the system. In order to meet the required chloride level so that Lindrick influent treated by the City of New Port Richey can be accepted into the County reuse system, it will be necessary for Lindrick to improve its collection system to further reduce the chloride level. Previous improvements have resulted in a reduction in influent chlorides, however, the aging clay pipes are a limiting factor which needs to be addressed to achieve additional significant improvement. Large sections of the collection system

must be relined or repaired to accomplish this reduction in infiltration.

In the original application, Lindrick requested an emergency rate increase of 47.13 percent effective immediately, and a second rate increase of 130.12 percent effective upon the completion of the interconnection with the City of New Port Richey. At that time, Lindrick was still negotiating with the City of New Port Richey for an agreement. On May 18, 1998, the New Port Richey City Council approved a Bulk Wastewater Agreement between the City and Lindrick. Under the terms of the Agreement, actual connection to the City was conditioned on proof that the chloride level in Lindrick's wastewater system effluent do not exceed 600 milligrams per liter.

On September 3, 1998, Lindrick filed a revised application, which changed the emergency rate increase previously requested to a non-emergency Phase I increase of 84.95 percent to allow recovery of the cost of (a) collection system improvements necessary to reduce chloride level; and (b) the City's bulk wastewater treatment rate. Also, Lindrick requested a Phase II rate increase of 131.55 percent to allow the recovery of (a) the remaining investments and costs associated with the interconnection, including the cost of collection system improvements necessary to further reduce the chloride level below 400 milligrams per liter; (b) the return on the investments based on the utility's approved rate of return; and (c) the additional contractual services expenses.

On February 17, 1999, our staff conducted a customer meeting in the utility's service area. Approximately 350 customers attended the meeting. The concerns of the customers will be addressed when our staff presents its final recommendation.

On April 19, 1999, Lindrick filed a second amended petition to request a Phase I wastewater rate increase of 133.26 percent, and a Phase II wastewater rate increase of 142.67 percent assuming no change in related party services. The requested Phase II wastewater rate increase requested is 158.13 percent if all related party expenses are replaced with contract services from third parties. The second amended petition also adds a proposed water rate increase of 19.05 percent for Phase II assuming no change in related party services. The requested Phase II water rate increase is 40.64 percent if all related party expenses are replaced with contract services from third parties. The utility's petition represents that the water rate increase is requested due to

underearning experienced by water operation for the year ended December 31, 1997. The second amended petition also states that "the required new transfer pumping facility will be completed prior to May 12, 1999. Under the Bulk Wastewater Agreement with the City, Lindrick must commence bulk wastewater treatment from the City on or before May 12, 1999 or risk termination of the Agreement by the City." The petition states that "Lindrick also faces substantial monetary penalties under the DEP Consent Order if bulk treatment service from the City is not commenced prior to May 19, 1999." Consequently, Lindrick requests an emergency, temporary increase in wastewater rates to recover the cost for the Phase I wastewater revenue requirement prior to May 12, 1999.

#### EMERGENCY RATES

On February 12, 1998, the utility filed a petition for a limited proceeding to implement a two-step increase in wastewater rates. In its petition, the utility requested emergency rates and final rates to allow the utility to recover the costs of the interconnection with the City of New Port Richey. The cost included in the calculation for emergency rates included adjusted operation and maintenance (O&M) expenses and taxes other than income grossed up for the regulatory assessment fees. The total requested revenue increase for emergency rates was \$358,909 (47.13 percent). The total requested revenue increase for the final rates was \$1,013,680 (130.12 percent).

By letter dated June 1, 1998, the utility withdrew its request for emergency rates. In that letter it also stated that the collection system improvements under the new agreement with the City would take approximately six to eight months to complete. The utility also stated that it expected to file an amended petition within the next ninety days, which would have been by August 30, 1998.

On September 17, 1998, the utility filed its amended petition for a limited proceeding to implement a two-step increase in wastewater rates. In this amended petition, the utility requested a revenue increase of \$646,901 (84.95 percent) for Phase I and a revenue increase of \$1,024,782 (131.55 percent) for Phase II.

On April 19, 1999, the utility filed a second revised petition for the two-step limited proceeding. In this petition, the utility requested an emergency temporary increase in wastewater rates. The utility requests that it be granted emergency rates so as to

recover the full Phase I increase in revenue of \$1,014,813 (133.26 percent). The utility requests a final increase (Phase II) in revenue of \$1,111,459 (142.67 percent). The utility requests that we approve the emergency temporary wastewater rates prior to May 19, 1999.

The second revised filing includes schedules listing the adjustments made to reflect the requested revenue increase. After reviewing these calculations, we find that the only expense that should be allowed in the calculation of emergency rates associated with the interconnection with the City of New Port Richey is purchased wastewater treatment because this appears to be the only emergency expense. None of the other expenses included in the calculation of the requested increase appear to be emergency in nature. The other expenses included in the calculations are adjusted O&M expenses, depreciation expense, taxes other than income, income tax expense, and a return on additional investment. Additional time is needed to review invoices and other documents for additional costs. Therefore, all other costs will be addressed when we consider final rates.

Although Chapter 367, Florida Statutes, does not expressly authorize "emergency" rates, Section 367.081(2), Florida Statutes, provides that we must fix rates which are just, reasonable, compensatory, and not unfairly discriminatory. Further, we have granted similar emergency rates in previous limited proceeding dockets. By Orders 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 so the utility could pay the costs incurred for 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; to Betmar Utility, Inc., by Order No. 93-0525-FOF-WU, issued April 7, 1993, in Docket No. 910963-WU; and to Forest Hills Utilities, Inc., by Order No. PSC-97-0207-FOF-SU in Docket No. 961475-SU (this was also for the purchased treatment costs).

In consideration of the above, the utility's request for emergency wastewater rates shall be approved subject to refund until we determine the appropriate final rates for the wastewater interconnection with the City of New Port Richey.

An audit of the utility's books has been completed with a test year ended December 31, 1997. The utility's scheduled interconnection date with the City is May 12, 1999, but this may be delayed. Also, we note that the cost of purchased wastewater treatment has increased from \$2.85 to \$2.89 per 1,000 gallons. Because the scheduled interconnection date is the year after the audit test year ending date, our staff requested the number of gallons of wastewater treatment and billing determinants for the calendar year 1998 to include growth. Using this data, we have calculated a revenue increase to include the cost of purchased wastewater at the new rate. Costs have been grossed up to include regulatory assessment fees. The annualized revenue was calculated based on the existing rates and 1998 consumption and number of customers. The calculated increase for emergency rates is \$480,394 divided by the calculated annualized revenue of \$802,673 which results in a 59.89 percent increase. Our calculations are as follows:

<u>Emergency Wastewater Rate Increase</u>	
Purchased wastewater treatment cost (158,746 gals x \$2.89)	\$458,776
Divided by regulatory assessment fee expansion factor	<u>.955</u>
Total recommended emergency revenue increase	<u>\$480,394</u>
Divide annualized revenue based on existing rates and 1998 consumption to include growth	<u>\$802,673</u>
Percentage increase in revenue	59.89%

The tariff sheets filed by Lindrick represent a 133.62 percent increase in rates, which is the total increase requested for Phase I. However, our analysis shows that the emergency increase in rates should be 59.89 percent. Therefore, the tariffs filed by Lindrick shall be denied. If the utility submits revised tariffs reflecting our decision on emergency rates, our staff shall have administrative authority to approve the submitted tariffs. The approved rates shall be effective for service rendered on or after the stamped approved 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. In addition, the utility shall

provide proof of the interconnection with the City of New Port Richey prior to implementing our approved emergency rates. The utility's existing rates, the utility's proposed emergency rates, and our approved emergency rates, are as follows:

Monthly Wastewater Rates

<u>Residential</u>	<u>Rates</u> <u>Prior to</u> <u>Filing</u>	<u>Utility's</u> <u>Proposed</u> <u>Emergency Rates</u>	<u>Comm'n Approved</u> <u>Emergency Rates</u>
Base Facility Charge: All meter sizes:	\$10.76	\$25.10	\$17.20
Gallonage Charge Per 1,000 gals (Wastewater Cap - 10,000 Gallons)	\$2.15	\$5.02	\$3.44
<u>General Service</u>			
Base Facility Charge: Meter size:			
5/8" x 3/4"	\$ 10.76	\$ 25.10	\$ 17.20
1"	\$ 26.92	\$ 62.79	\$ 43.02
1 1/2"	\$ 53.78	\$ 125.45	\$ 85.95
2"	\$ 86.15	\$ 200.95	\$ 137.68
3"	\$172.30	\$ 401.91	\$ 275.37
4"	\$269.21	\$ 627.96	\$ 430.25
6"	\$538.40	\$1,255.87	\$ 860.47
8" (Compound)	\$861.04	\$2,008.46	\$1,376.27
8" (Turbine)	\$968.76	\$2,259.73	\$1,548.27
Gallonage Charge Per 1,000 Gallons	\$ 2.15	\$ 5.02	\$3.44

Typical Monthly Residential Bills

Wastewater Only

	<u>Rates Prior to Filing</u>	<u>Utility's Proposed Emergency Rates</u>	<u>Comm'n Approved Emergency Rates</u>
<u>5/8" x 3/4" meter</u>			
3,000 Gallons	\$17.21	\$40.16	\$27.52
5,000 Gallons	\$21.51	\$50.20	\$34.40
10,000 Gallons (Wastewater Cap- 10,000 Gallons)	\$32.26	\$75.30	\$51.60

SECURITY

The excess of emergency rates over the previously authorized rates shall be collected subject to refund with interest. The utility may file either a letter of credit or bond in the amount of the annualized increase (\$480,394). If the utility is unable to secure an appropriate bond or letter of credit, the utility shall deposit in an 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 the City of New Port Richey for bulk wastewater service. Under no circumstances shall the utility be allowed to withdraw any amount of money except for payments to the City of New Port Richey 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, if the utility uses an escrow account, the amount of the withdrawals to the City of New Port Richey, 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 and a signatory to the escrow account. The written escrow agreement shall state the following: that the account is established at the direction of this Commission for the purpose set forth above; that monthly withdrawals of funds shall be



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allowed only with prior approval of the Commission to pay the City of New Port Richey for bulk wastewater service; that the account shall be interest bearing; that the Director of Records and Reporting must be a signatory to the escrow agreement; that all information concerning the escrow account be available 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.

This docket shall remain open to process the utility's application for a limited proceeding.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the request of Lindrick Service Corporation for an emergency rate increase is hereby approved as set forth in the body of this Order. It is further

ORDERED that the increased rates will be subject to refund in accordance with Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that pursuant to Rule 25-30.360(6), Florida Administrative Code, Lindrick Service Corporation shall provide a report by the twentieth of each month, indicating the monthly and total revenues collected subject to refund, and proof of payments to the city of New Port Richey on a monthly and total basis. It is further

ORDERED that the proposed tariffs filed by Lindrick Service Corporation are denied. It is further

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ORDERED that Lindrick Service Corporation shall file revised tariff sheets in accordance with the provisions of this Order. It is further

ORDERED that the emergency 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, provided the customers have received the appropriate notice and the utility has provided proof of the interconnection with the City of New Port Richey. It is further

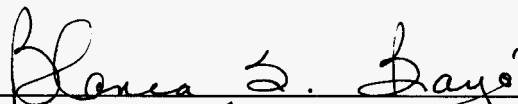
ORDERED that Lindrick Service Corporation shall provide proof of the date notice was given within ten days after the date of the notice. It is further

ORDERED that Lindrick Service Corporation shall file a bond or letter of credit in the amount of \$480,394 as a guarantee for any potential refund. Alternatively, the utility may establish an escrow agreement with an independent financial institution pursuant to the terms and conditions set forth within the body of this Order. It is further

ORDERED that the revised tariff sheets will be approved upon our staff's verification that they are consistent with the Commission's decision, that the customer notice is adequate, that the interconnection has taken place, and that there is appropriate refund security. It is further

ORDERED that this docket shall remain open to process Lindrick Service Corporation's application for a limited proceeding.

By ORDER of the Florida Public Service Commission this 20th day of May, 1999.

  
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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.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

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.