

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application by
Tradewinds Utilities, Inc. for
approval of a new class of
service for wastewater-only flat
rates in Marion County.

DOCKET NO. 981825-SU
ORDER NO. PSC-99-1754-TRF-SU
ISSUED: September 7, 1999

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON
JULIA L. JOHNSON
E. LEON JACOBS, JR.

ORDER DENYING TARIFF FILING FOR NEW CLASS OF SERVICE FOR
WASTEWATER-ONLY FLAT RATES

AND

NOTICE OF PROPOSED AGENCY ACTION ORDER
REQUIRING TRADEWINDS UTILITIES, INC. TO FILE REVISED TARIFF SHEET
REFLECTING AUTHORIZED WASTEWATER-ONLY FLAT RATES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein requiring Tradewinds Utilities Inc., to file a revised tariff sheet reflecting the wastewater-only flat rates authorized 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

Tradewinds Utilities, Inc. (Tradewinds or utility) is a Class C water and wastewater utility located in Marion County. According to the utility's 1997 annual report, the utility provides water service to approximately 421 customers and wastewater service to approximately 257 customers. In its 1997 annual report, the utility reported water revenues in the amount of \$84,259 and wastewater revenues in the amount of \$132,456 with expenses of

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ORDER NO. PSC-99-1754-TRF-SU
DOCKET NO. 981825-SU
PAGE 2

\$78,286 for water and \$120,302 for wastewater, resulting in net operating income of \$5,973 and \$12,154 respectively. The utility's service area is located in the St. Johns River Water Management District.

By Order No. PSC-98-0484-FOF-WS, issued April 6, 1998, in Docket No. 971174-WS, the Commission amended the utility's certificated territory to include additional territory in Marion County. Residents in this additional territory currently have private wells and septic tanks; however, as a result of problems with contamination of wells and backing-up of septic tanks, the Marion County Health Department requested that the utility extend its territory into this area.

On November 6, 1998, a customer in the newly certificated territory filed a complaint stating that Tradewinds recently installed a private water/sewer system and was mandating that all property owners connect to this system. The customer stated that the utility neither notified customers prior to the installation nor provided any opportunity for customers to reject the proposal. Our staff responded to the customer on November 24, 1998, and explained that, pursuant to Section 367.045, Florida Statutes, we had recently granted the utility's amendment application to serve the area. As part of its application, Tradewinds was required to submit proof that it provided adequate customer notice of the proposed amendment. The notice was published in the Starr-Banner Newspaper on January 28, 1998, and no protests were filed within the 30-day protest period set forth in Rule 25-30.031, Florida Administrative Code. The customer was urged to contact the Marion County Health Department for further information regarding the requirement to connect to Tradewinds system.

On December 8, 1998, the utility submitted a proposal requesting that we grant the approval of wastewater-only flat rates for a new class of service pursuant to Sections 367.091(4) and (5), Florida Statutes. In its proposal, the utility proposed to serve an additional 32 equivalent residential connections (ERCs) consisting of an estimated 26 quadraplexes, and six light industrial buildings. Although this proposal did not include tariff sheets, the utility also provided the following information pursuant to Rule 25-9.005 (4), Florida Administrative Code: a statement of purpose for the new service, the estimated revenues that will be derived from the new service, the estimated number of customers to be served, and cost justification for the proposed rates and charges. The new class of service includes service to

the amended certificated territory approved in Order No. PSC-98-0484-FOF-WS, issued April 6, 1998, in Docket No. 971174-WS. Within that territory, the utility provides water and wastewater services, for which the utility has Commission-approved metered rates. Also within that territory are potential customers requiring wastewater-only services, for which the utility does not have Commission-approved final rates.

On January 14, 1999, in a telephone conversation with our staff, the utility's president, Mr. Charles de Menzes, stated that 16 of the customers in the newly authorized territory receive water and wastewater service and are being charged the Commission-approved metered rates. However, those customers that are not metered by the utility for water cannot be charged the Commission-approved base facility and gallonage charge for wastewater. Because some potential customers are connected to private wells and do not wish to accept water service, the utility requested flat rates for a new class of wastewater-only service. These potential customers are presently using septic tanks and are not receiving service from the utility.

On January 19, 1999, the utility submitted its Original Tariff Sheet No. 16.1, which contained its requested rates for quadraplexes and light industrial buildings. By Order No. PSC-99-0382-FOF-SU, issued February 23, 1999, in this docket, we approved temporary rates, subject to refund, for a new class of service for wastewater-only flat rates. This Order provided that "if a protest is filed within 21 days of issuance of this order, the tariff sheet shall remain in effect, with monies collected held subject to refund, pending resolution of the protest."

A timely protest was filed to Order No. PSC-99-0382-FOF-SU on March 12, 1999, by Mr. Charles Ruse, Jr. In his protest, Mr. Ruse stated that the approved temporary rate of \$261.55 for quadraplexes was outrageous. He also stated that requiring utilization of a two-inch meter was excessive, especially where a two-inch pipe would terminate into an existing one-inch pipe. Because a protest was received, the matter was set for hearing by Order No. PSC-99-0898-PCO-SU, issued May 5, 1999 (Order Establishing Procedure). In addition to Mr. Ruse's timely protest, several untimely protests were received in opposition to the temporary wastewater-only flat rates.

A customer meeting was held on April 28, 1999, at the Marion County Board of County Commissioners complex in Ocala, Florida.

Eleven of the proposed 26 potential customers that owned the quadraplexes in the George Mayo subdivision attended the meeting. Also in attendance at the meeting were two employees of the Marion County Health Department, the utility's engineer, the owner of the utility, the utility's counsel, and Commission staff. Nine of the 11 potential customers at the meeting chose to give comments regarding the utility's proposed wastewater-only flat rates, along with other issues related to the case. In addition, the health department representative added additional comments. One of the potential customers in attendance at the meeting, Ms. Barbara Robinson, presented her original complaint against the approved temporary wastewater-only flat rates. She also submitted a letter from the utility to show that the utility had rejected her application for water and wastewater services and returned her check for payment. The utility stated that it rejected the application requesting water and wastewater services because the request was for the 1 inch metered rate. In its letter, the utility stated that Miles C. Anderson, P.E., certified that "a two-inch meter is required for the property in question per all local and state guidelines."

Pursuant to Section 381.00655(1)(a), Florida Statutes,

The owner of a properly functioning onsite sewage treatment and disposal system, excluding an approved onsite graywater system, must connect the system or the building's plumbing to an available publicly owned or investor-owned sewerage system within 365 days after written notification by the owner of the publicly owned or investor-owned sewerage system that the system is available for connection.

However, representatives for the Marion County Health Department have indicated that the health department does not intend to enforce Section 381.00655(1)(a), Florida Statutes. Additionally, in a telephone conversation on May 6, 1999, Marion County's utility counsel informed our staff that Marion County does not currently have a mandatory interconnection ordinance. Apparently, this matter was discussed at a Marion County Board of County Commissioners' meeting and to its counsel's knowledge, Marion County does not plan to implement such a policy. The County officials stated that it made a determination that it was not obligated to enforce this statute.

By Order No. PSC-99-1390-FOF-SU, we found that it was incorrect to include language providing for a protest period in Order No. PSC-99-0382-FOF-SU, and corrected the Notice of Further Proceedings attached thereto by deleting the protest language. We also vacated Order No. PSC-99-0898-PCO-SU (the Order Establishing Procedure). The Chairman's Office canceled the hearing.

WASTEWATER-ONLY FLAT RATES REQUESTED

As noted above, by Order No. PSC-99-0382-FOF-SU, we approved wastewater-only flat rates, on a temporary basis, subject to refund, for the George Mayo subdivision. The approved rates were for quadraplexes and light industrial buildings and were calculated based on a 2 inch meter.

As stated in the background, pursuant to Rule 25-9.005(4), Florida Administrative Code, the utility provided a statement of the purpose and reason for the new service. The utility indicated that one of the reasons for its extension was a request from the Marion County Health Department, and, as a result of the wastewater extension, the utility received a \$280,000 loan from a financial institution. The utility has stated that the health department initially was in favor of requiring these customers in the George Mayo subdivision to connect. Currently, the health department's position on the matter is neutral, and in fact it has stated that it would not force the customers to connect to the wastewater system.

In its original application, the utility submitted the results of an inspection of the area by its engineer. The engineer stated that "sound engineering practice calls when 3 or more unit's (ERC's) require the installation of 2" water service, the installing of a 2" meter will satisfy the design for the quad buildings criteria for such dwelling units." In its application for a wastewater-only flat rate, Tradewinds proposed two flat rates for the George Mayo subdivision. The first proposed rate of \$261.55 was for quadraplexes with two or more bathrooms. This was based upon the utility's approved Base Facility Charge (BFC) of \$142.48 for a 2 inch meter plus a consumption amount. Tradewinds used an estimated consumption for these quadraplexes of 19,812 gallons per month. This estimated consumption was based upon the average usage for residential customers with 5/8 x 3/4 inch meters in the Tradewinds Village subdivision. The average usage for these residential customers was 4,953 gallons per month for the year 1998. This consumption amount was then multiplied by 4 to get the

estimated quadraplex usage per month. Tradewinds' currently approved wastewater gallonage rate for general service customers is \$6.01 per 1,000 gallons. Therefore, the proposed flat wastewater rate for the quadraplexes is \$261.55 per month - ($\$142.48 + ((19,812/1000) \times \$6.01)$).

The second proposed flat rate of \$58.95 was for light industrial buildings with one or two bathrooms. This was based upon the utility's approved BFC of \$44.53 for a 1 inch meter plus a consumption amount. Tradewinds used an estimated consumption for the light industrial building of 2,400 gallons. This estimated consumption was based upon 50 percent of the residential usage, or 2,400 gallons per month. Tradewinds' currently approved wastewater gallonage rate for general service customers is \$6.01 per 1,000 gallons. Therefore, the proposed flat wastewater rate for the light industrial buildings is \$58.95 per month - ($\$44.48 + ((2,400/1000) \times \$6.01)$).

Upon review of the utility's request, there was concern that the projected revenues may place the utility in a possible overearning situation. As stated in the case background, the utility has proposed to serve an additional 32 ERCs, and those 32 ERCs consist of 26 quadraplexes and six light industrial buildings. The utility also submitted projected revenues associated with these 32 ERCs, which were based on a BFC of a 2 inch meter for the quadraplexes of \$261.55 and the BFC of a 1 inch meter for the light buildings of \$58.95. Based on this information, if the 26 quadraplexes and six light buildings were connected, they would generate revenues of \$81,604 and \$4,244, respectively. The total annual revenues would be \$85,848. However, upon further analysis of the projected revenues against the projected Rate Base, projected Capital Structure, and projected Operation & Maintenance Expense, we determined that the projected revenues would not cause the utility's rate of return on equity to exceed beyond its authorized range.

After we received several protests to Order No. PSC-99-0382-FOF-SU, a Commission staff engineer coordinated an on site visit to investigate the concerns of the protesters. The engineer toured the George Mayo subdivision prior to the customer meeting held on April 28, 1999. Upon visiting the subdivision, our staff engineer determined that the lines running from the quadraplexes to the existing wells were 1 inch lines. Accordingly, we conclude that it would not be appropriate to approve a flat rate based upon a BFC for a 2 inch meter. With the additional information provided by

the staff engineer on the 1 inch lines, we find it appropriate to base the flat rate for quadraplexes upon a BFC for a 1 inch meter. A 1 inch line's maximum capacity of water flow can only be the maximum flow that can be generated through that 1 inch line. In other words, the maximum capacity for the quadraplexes, which is restricted by the 1 inch lines running to the existing wells, is based on that water supply. It would not matter if a meter larger than a 1 inch were installed on these 1 inch water lines since the maximum capacity would still be restricted by the 1 inch lines.

Based upon the foregoing, we deny the utility's proposed tariff sheet, which contains wastewater-only rates based upon a BFC for a 2 inch meter for quadraplexes.

AUTHORIZED WASTEWATER-ONLY FLAT RATES

We find it appropriate to calculate a flat wastewater rate for the quadraplexes and light industrial building using estimated consumption provided by the utility and the utility's existing 1 inch BFC. In addition, we have reviewed the estimated consumption for both the quadraplexes and the light industrial building and have determined that these amounts are fair, just and reasonable, if not conservative. Therefore, we have used these estimated consumption amounts to calculate a flat rate of \$163.60 for the quadraplexes and a flat rate of \$58.95 for the light industrial building.

The utility's existing wastewater BFC for a 1 inch meter is \$44.53. Its existing gallonage charge for general service customers is \$6.01 per 1,000 gallons. Estimated consumption for the quadraplex is 19,812 gallons per month and 2,400 gallons per month for the light buildings. The calculated flat rate for the quadraplex is \$163.60 per month ($\$44.53 + (19,812 \text{ gallons}/1,000 \times \$6.01)$). We have calculated a flat rate for light buildings of \$58.95 per month ($\$44.53 + (2,400 \text{ gallons}/1,000 \times \$6.01)$). The utility has projected that it will serve a total of 26 quadraplexes and six light buildings. The calculated flat rates for the quadraplex will produce annual revenue of \$51,043 and will produce annual revenue of \$4,244 for the light buildings. The total annual revenue is projected to be \$55,287.

As previously discussed, the utility's total projected annual revenues for wastewater-only flat rates for quadraplexes (2 inch flat rate) and light buildings (1 inch flat rate) would not cause the utility to exceed its authorized rate of return on equity.

ORDER NO. PSC-99-1754-TRF-SU
DOCKET NO. 981825-SU
PAGE 8

Accordingly, we find that the revised wastewater-only flat rates for quadraplexes and light industrial buildings, which are based on a 1 inch flat rate and the revenues generated from that 1 inch flat rate, will not cause the utility to exceed its authorized rate of return on equity.

Based upon the foregoing, the utility shall be required to file a tariff sheet reflecting wastewater-only flat rates of \$163.60 for the quadraplexes and \$58.95 for the light industrial buildings within 30 days of the date of issuance of this Order. Further, Original Tariff Sheet No. 16.1, approving rates on a temporary basis, shall be canceled. If the utility files a tariff sheet containing the flat rates approved herein, our staff shall be given administrative authority to approve the tariff sheet upon verification that is consistent with our decision. The revised tariff sheet shall become effective for services rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code, provided the potential wastewater-only customers have received notice.

NO REFUND REQUIRED

To date, the utility has not provided service to any of the potential wastewater-only customers. Therefore, the utility has not collected any revenues from the potential customers in the subdivision.

In compliance with Order No. PSC-99-0382-FOF-SU, the utility submitted an escrow agreement for our approval. Our staff approved the escrow agreement on March 10, 1999. Because there were no connections made nor monies collected by Tradewinds from wastewater-only customers, no refunds are required for these customers in the George Mayo subdivision.

If no timely protest is filed within 21 days of the issuance date of this Order, this docket shall be closed upon the issuance of a Consummating Order. However, if a protest is filed by a substantially affected person within 21 days of the issuance date of this Order, the docket shall remain open and Original Tariff Sheet No. 16.1 containing the temporary flat wastewater-only rates shall remain in effect, subject to refund, pending resolution of the protest.

ORDER NO. PSC-99-1754-TRF-SU
DOCKET NO. 981825-SU
PAGE 9

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Tradewinds Utilities, Inc.'s proposed tariff sheet containing wastewater-only flat rates for the George Mayo subdivision is denied as filed. It is further

ORDERED that all matters contained in the body of this Order are by reference incorporated herein. It is further

ORDERED that the provisions of this Order that are issued as proposed agency action shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, 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 Tradewinds Utilities, Inc. shall file a revised tariff sheet within 30 days of the date of issuance of this Order that accurately reflects a flat rate of \$163.60 for quadraplexes and a flat rate of \$58.95 for light industrial buildings. Staff shall have the administrative authority to approve the revised tariff sheet upon verification that it in fact accurately reflects the flat rates as set forth in the body of this Order. It is further

ORDERED that the wastewater-only flat rates shall become effective for connections made on or after the stamped approval date on the revised tariff sheet, if no timely protest is filed. It is further

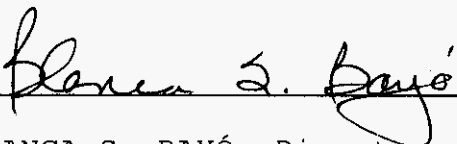
ORDERED that if no timely protest is filed, this docket shall remain open for 30 days from the effective date of this Order to allow Tradewinds Utilities, Inc. to file the revised tariff sheet approved herein. It is further

ORDERED that if a protest is filed in accordance with the Notice of Further Proceedings attached to this Order, the temporary rates reflected in the original tariff shall remain in effect, with any revenues collected subject to refund, pending the outcome of the protest. It is further

ORDER NO. PSC-99-1754-TRF-SU
DOCKET NO. 981825-SU
PAGE 10

ORDERED that this Order shall become final upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 7th day of September, 1999.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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ORDER NO. PSC-99-1754-TRF-SU
DOCKET NO. 981825-SU
PAGE 11

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 that is available under Section 120.57, 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 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.

The Commission's decision on the tariff filing is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files a petition for a formal proceeding, in the form provided by Rule 28-106.201, 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 September 28, 1999.

The provisions of this Order requiring the utility to file a revised tariff sheet reflecting the wastewater-only flat rates authorized herein are preliminary in nature and are issued as proposed agency action. Any person whose substantial interests are affected by the action proposed by this Order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, 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 September 28, 1999.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

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.