

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Notice of abandonment of
Springside at Manatee, Ltd. in
Levy County by Mr. Kenneth
Drummond.

DOCKET NO. 991206-WS
ORDER NO. PSC-00-0088-PAA-WS
ISSUED: January 10, 2000

The following Commissioners participated in the disposition of this matter:

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

ORDER ACKNOWLEDGING APPOINTMENT OF RECEIVER AND
NOTICE OF PROPOSED AGENCY ACTION IMPLEMENTING COMPENSATORY RATES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action implementing compensatory rates, as discussed 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

Springside at Manatee, Ltd., (Springside or utility) is a Class C water and wastewater utility serving the Springside Mobile Home community in Levy County (County). According to its 1998 annual report, the utility had approximately 52 connections with combined gross revenues of \$22,649 and a combined net operating loss of \$2,866.

On August 18, 1999, the owner of the utility, Mr. Kenneth Drummond, gave 60 days' notice of his intent to abandon Springside pursuant to Section 367.165, Florida Statutes. We acknowledged the notice of abandonment by Order No. PSC-99-2112-FOF-WS, issued October 25, 1999.

DOCUMENT NUMBER-DATE

00396 JAN 10 8

FPSC-RECORDS/REPORTING

Pursuant to Order No. PSC-92-0190-FOF-WS, issued April 13, 1992, in Docket No. 910909-WS, annual revenue requirements and rates were established for the utility. The utility owner requested to forego a return on his investment and to implement rates which excluded recognition of management's time and office facilities. As a result, the Commission approved less than fully compensatory rates for the utility. The new Receiver has indicated that, at a minimum, he will need the compensatory rates to help meet utility expenses.

APPOINTMENT OF RECEIVER

Levy County filed a Petition To Appoint A Receiver with the Circuit Court of the Eighth Judicial Circuit in and for Levy County, Florida (Circuit Court). By Order dated November 24, 1999, the Circuit Court appointed Mr. Lonnie Parnell as the Receiver for Springside in Case No. 99-939-CA.

The term of the Receiver's appointment began on the date of the Circuit Court order and is to continue until such time as the Receiver sells or otherwise disposes of the property of the utility. All property assets, documents, and facilities were ordered to be turned over to the Receiver effective the date of the Circuit Court order. In addition, the Circuit Court specifically required Mr. Drummond to turn over and produce all bank accounts, bank account records, customer deposits, cash, and accounts receivable balances to the Receiver.

To effectively carry out the responsibilities of the Circuit Court order, the Receiver was given the necessary powers and authority to maintain and operate the utility. The Circuit Court retains jurisdiction to enter further orders and to take further actions as deemed appropriate. Once permanent disposition of the utility is determined, the Circuit Court case will terminate and the matter will be closed. Meanwhile the Receiver is required to submit to the Circuit Court, after review and analysis by Levy County, quarterly utility financial and operational reports.

The utility is current on its annual reports and regulatory assessment fees (RAFs) through 1998. 1999 annual report and RAFs will not be due until March 31, 2000. Since the books and records of the utility were to have been turned over to the Receiver pursuant to the Circuit Court's order, the Receiver will be responsible for submitting the utility's 1999 Annual Report.

ORDER NO. PSC-00-0088-PAA-WS
DOCKET NO. 991206-WS
PAGE 3

In addition, since the Circuit Court required Mr. Drummond to turn over all bank accounts and deposits to the Receiver, the Receiver will also be responsible for submitting the utility's 1999 RAFs. Should there be a dispute regarding the prior collection of RAFs, the Circuit Court holds Mr. Drummond liable under all applicable laws for any claims, violations, demands, penalties, suits, proceedings, actions, or fees occurring prior to the appointment and acceptance of the Receiver. These matters will be resolved in Circuit Court.

Our staff has discussed the above matters with the Receiver. Accordingly, we acknowledge the appointment of Lonnie Parnell as the Receiver for Springside at Manatee, Ltd. The address and telephone number for the utility during the pendency of the receivership is: c/o Mr. Lonnie Parnell, P.O. Box 72, Chiefland, Florida 32644 (352-486-2828).

PROPOSED AGENCY ACTION
IMPLEMENTING COMPENSATORY RATES

By Order No. PSC-92-0190-FOF-WS, issued April 13, 1992, in Docket No. 910909-WS, the Commission established compensatory annual revenue requirements for the utility of \$10,346 for the water system and \$19,195 for the wastewater system, and rates based upon these revenue requirements. At that time, these rates would have represented a 155 percent increase for water and 374 percent increase for wastewater. Consequently, the utility requested to forego a return on investment and to implement rates which excluded any recognition of management's time and office facilities. We concurred and reduced rates were put into effect on May 4, 1992.

However, the new Receiver has indicated that, at a minimum, he will need the compensatory rates established by Order No. PSC-92-0190-FOF-WS to help offset utility expenses. Since the abandonment, the main water pump failed and a lift station part will need to be replaced. Consequently, the Receiver indicated he may also need to file for a staff-assisted rate case once all the repairs and replacements have been made and the total costs are known.

We are not aware of any precedent for implementing previously established compensatory rates once lesser rates had been put into effect. Nevertheless, appropriate compensatory rates were established by Order No. PSC-92-0190-FOF-WS in accordance with Section 367.0814, Florida Statutes. Accordingly, these rates were

determined to be fair, just and reasonable. The decision by the former utility owner not to implement the compensatory rates may well have contributed to the utility falling into receivership. However, the new Receiver should not be required to continue to collect rates which the Commission has determined are less than compensatory. Section 367.081(2)(a), Florida Statutes, requires the Commission to "fix rates which are just, reasonable, compensatory, and not unduly discriminatory."

Below is a comparison of the utility's existing water and wastewater rates along with the rates approved by Order No. PSC-92-0190-FOF-WS. The compensatory rates have been adjusted to reflect the fact that rate case expenses have been fully amortized:

M O N T H L Y

WATER

General and Residential Service

<u>Base Facility Charge</u>		<u>PSC-92-0190-FOF-WS</u>	<u>Staff-Adjusted</u>
<u>Meter Size</u>	<u>Existing</u>	<u>Compensatory</u>	<u>Recommendation</u>
5/8" x 3/4"	\$ 7.63	\$ 7.71	\$ 7.68
3/4"	11.46	11.57	11.53
1"	19.09	19.28	19.20
1-1/2"	38.18	38.55	38.40
2"	61.08	61.68	61.44
3"	122.17	123.36	122.89
4"	190.88	192.75	192.01
Gallonge Charge (per 1000 gallons)	\$ 1.53	\$ 2.69	\$ 2.68

WATER

Existing Irrigation Service

Available only if metered residential service is also utilized.

Gallonge Charge (per 1000 gallons)	\$ 1.53
------------------------------------	---------

WATER

Existing Service Availability Policy and Charges

A water treatment plant and transmission and distribution system have been constructed to serve 113 residential lots. A system capacity charge of \$325 per ERC was developed based on the original cost of the system. (ERC = 350 gallons per day.)

WASTEWATER

General Service

<u>Base Facility Charge</u> <u>Meter Size</u>	<u>Existing</u>	<u>PSC-92-0190-FOF-WS</u> <u>Compensatory</u>	<u>Staff-Adjusted</u> <u>Recommended</u>
5/8" x 3/4"	\$ 10.61	\$ 16.11	\$ 16.08
3/4"	15.93	24.17	24.12
1"	26.54	40.28	40.19
1-1/2"	53.08	80.55	80.38
2"	84.92	128.88	128.61
3"	169.85	257.76	257.23
4"	265.38	402.75	401.92
Gallonge Charge (per 1000 gallons)	\$ 4.61	\$ 6.23	\$ 6.22

WASTEWATER

Residential Service

<u>Base Facility Charge</u> <u>Meter Size</u>	<u>Existing</u>	<u>PSC-92-0190-FOF-WS</u> <u>Compensatory</u>	<u>Staff-Adjusted</u> <u>Recommended</u>
All meter sizes	\$ 10.61	\$ 16.11	\$ 16.08
Gallonge Charge (per 1000 gallons--maximum 10,000 gallons)	\$ 3.84	\$ 5.19	\$ 5.18

WASTEWATER

Existing Service Availability Policy and Charges

A sewer treatment plant and collection system have been constructed to serve 113 residential lots. A system capacity charge of \$950 per ERC (280 gallons per day) was developed based on the original cost of the system. No other service availability charges have been approved.

WATER AND WASTEWATER

Existing Miscellaneous Service Charges

	<u>Water</u>	<u>Wastewater</u>
Initial Connection	\$ 15.00	\$ 15.00
Normal reconnection	15.00	15.00
Violation reconnection	15.00	Actual cost
Premises Visit	10.00	10.00

Where both water and wastewater services are provided, only a single charge is appropriate unless circumstances beyond the control of the utility require multiple actions. Actual cost for a wastewater violation reconnection is limited to materials and equipment rental.

CONCLUSION

We approve the Receiver's request to implement the compensatory rates for the utility as set forth in Order No. PSC-92-0190-FOF-WS, as adjusted to exclude prior rate case expense amortization. The compensatory 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 notice. The utility shall provide proof of the date notice was given within 10 days after the date of the notice. Our staff shall have administrative authority to approve the tariff sheets upon verification that the notice is adequate and the tariffs are consistent with our decision. All other existing rates and charges for the utility, as set forth above, shall remain in effect.

ORDER NO. PSC-00-0088-PAA-WS
DOCKET NO. 991206-WS
PAGE 7

DOCKET CLOSURE

If no timely protest is received to the proposed agency action, no further action will be necessary and, upon the expiration of the protest period, this Order shall become final and effective upon the issuance of a Consummating Order and the docket shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the appointment of Mr. Lonnie Parnell, P.O. Box 72, Chiefland, Florida 32644, on November 24, 1999, as Receiver of Springside at Manatee, Ltd., is hereby acknowledged, it is further

ORDERED that Springside at Manatee, Ltd., is authorized to charge the rates and charges as set forth in the body of this Order. It is further

ORDERED that the rates and charges approved herein shall be effective for service rendered on or after the stamped approval date on the revised tariff sheets, pursuant to Rule 25-30.475(1), Florida Administrative Code, provided customers have received notice. It is further

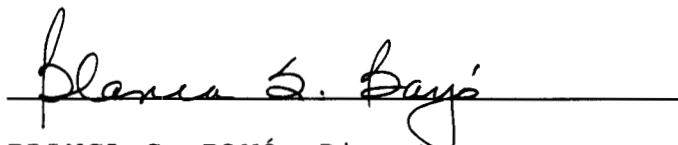
ORDERED that Springside at Manatee, Ltd., shall provide proof of the date notice was given within 10 days after the date of the notice. It is further

ORDERED that the provision of this Order implementing compensatory rates 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" attached hereto. It is further

ORDERED that if no timely protest is received to the proposed agency action, no further action will be necessary and, upon the expiration of the protest period, this Order shall become final and effective upon the issuance of a Consummating Order and the docket shall be closed.

ORDER NO. PSC-00-0088-PAA-WS
DOCKET NO. 991206-WS
PAGE 8

By ORDER of the Florida Public Service Commission this 10th
day of January, 2000.


BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

JKF

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.

As identified in the body of this order, our action implementing compensatory rates is preliminary in nature. 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, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on January 31, 2000. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

ORDER NO. PSC-00-0088-PAA-WS
DOCKET NO. 991206-WS
PAGE 9

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.

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 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 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.