

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for allowance for funds prudently invested (AFPI) charge for additional water improvements and for additional lines associated with wastewater extension into George Mayo subdivision in Marion County, by Tradewinds Utilities, Inc.

DOCKET NO. 991835-WS
ORDER NO. PSC-00-0368-TRF-WS
ISSUED: February 21, 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 APPROVING WASTEWATER AFPI CHARGES
AND SUSPENDING WATER AFPI CHARGES

BY THE COMMISSION:

BACKGROUND

Tradewinds Utilities, Inc. (Tradewinds or utility) is a Class C water and wastewater utility located in Marion County. According to its 1998 annual report, the utility was serving approximately 442 water customers and approximately 270 wastewater customers. In its 1998 annual report, the utility reported water revenues in the amount of \$90,121 and wastewater revenues in the amount of \$138,618 with expenses of \$93,990 for water and \$138,983 for wastewater, resulting in net operating losses of (\$3,869) and (\$365) for water and wastewater, respectively. The utility's service area is located in the St. Johns River Water Management District.

On December 6, 1999, the utility filed proposed tariffs along with an application for authority to initiate AFPI charges, pursuant to Section 367.091, Florida Statutes, and Rules 25-30.565 and 25-30.434, Florida Administrative Code. The utility requested approval of AFPI charges to cover non-used and useful plant. The Department of Environmental Protection (DEP) provided the utility

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with a loan from the State of Florida Revolving Fund for the amount of \$632,700, in connection with improving the quality of water being served to the utility's customers in the George Mayo Subdivision in accordance with the Safe Water Drinking Act. As a result of the wastewater extension, the utility was granted a \$280,000 loan from a local financial institution.

The utility is requesting AFPI charges for the recovery of the carrying cost for the additional water plant and the extension of wastewater lines for the subdivision. We have reviewed the utility's December 31, 1998 annual report for compliance with our rules and Orders and determined components for rate setting.

WASTEWATER AFPI CHARGES

An AFPI charge is a mechanism designed to allow the utility to earn a fair rate of return on a portion of the plant facilities which were prudently constructed and held for future use for future customers that will be served by that plant in the form of a charge paid by those customers. This charge allows the recovery of carrying costs on the non-used and useful plant. By providing this type of charge, the existing customers do not pay for plant expansion used to serve future customers. Future customers bear their equitable share of the carrying costs related to the plant facilities being constructed to provide service to them.

This one-time charge is based on the number of equivalent residential connections (ERCs) and is generally applicable to all future customers who have not already prepaid the connection fees, contributions-in-aid-of-construction (CIAC) charge, or customer advances. The charge is assessed based on the date the future customers make some form of "prepayment" (connection charge, CIAC, or advance) or on the date the customer connects to the system, whichever comes first.

The utility submitted contractual invoices and a copy of a standard loan as justification of the wastewater AFPI charges. The utility received a loan from a local financial institution for \$280,000 in connection with the wastewater extension into the George Mayo Subdivision. From invoices and utility payments, the actual final cost for wastewater lines is \$212,564. We have examined the utility's 1998 annual report, invoices, and loan documents, and determined that this amount is reasonable and prudent.

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The AFPI charge shall be based upon the number of ERCs required by a particular customer. The AFPI charge is intended to recover the carrying costs associated with all future plant. Therefore, the charge will vary based upon the date a future customer makes a prepayment on such connection, or on the date the customer actually connects to the system. Rule 25-30.434(5), Florida Administrative Code, states "unless the utility demonstrates that the 5-year period is inappropriate, it is prudent for a utility to have an investment in future use plant for a period of no longer than 5 years beyond the test year." It is our practice in establishing AFPI charges to calculate the charge for a 5-year period, unless the utility states extraordinary or unusual circumstances to justify an AFPI charge for a longer period. However, in this docket, the utility has not stated any extraordinary or unusual circumstances.

The following schedule represents the approved wastewater AFPI charges based upon the time of the initial connection or prepayment. These charges represent one (1) ERC, and if a future customer requires more than 1 ERC, the connection fee shall be multiplied by the number of connections (ERCs) which are required to provide service to the customer. Using the final cost figures, the following wastewater AFPI charges are approved:

WASTEWATER

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
January	\$ 16	\$208	\$406	\$613	\$ 832
February	\$ 32	\$225	\$423	\$632	\$ 851
March	\$ 48	\$241	\$440	\$650	\$ 870
April	\$ 64	\$258	\$458	\$668	\$ 889
May	\$ 80	\$274	\$475	\$686	\$ 908
June	\$ 96	\$290	\$492	\$704	\$ 927
July	\$112	\$307	\$509	\$722	\$ 946
August	\$128	\$323	\$526	\$740	\$ 965
September	\$144	\$340	\$544	\$758	\$ 984
October	\$160	\$356	\$561	\$776	\$1,003
November	\$176	\$372	\$578	\$794	\$1,022
December	\$192	\$389	\$595	\$812	\$1,041

The test year used in this case for establishing the amount of non-used and useful plant is the year ending December 31, 1998. Pursuant to Rule 25-30.434(4), Florida Administrative Code, the beginning date for accruing the AFPI charge shall agree with the month following the end of the test year that was used to establish the amount of non-used and useful plant. Therefore, the beginning date for accruing the AFPI in this case is January 1999. No charge shall be collected for any connections made between the beginning dates and the effective date of the AFPI charge.

The utility shall collect wastewater AFPI charges as approved above. However, the utility shall also be allowed recovery beyond the 5-year period, as allowed pursuant to Rule 25-30.434(6), Florida Administrative Code. This will enable the utility to collect for all 113 wastewater ERCs, although the AFPI charge shall cease accruing charges and remain constant after the 5-year accrual period has expired. The utility shall collect the constant charge until all projected 113 wastewater ERCs in the calculation have been added, at which time the charge shall be discontinued.

The approved AFPI charges are those listed above. Therefore, wastewater Original Tariff Sheet No. 16.2 which was filed by the utility on December 6, 1999 is approved as filed. The wastewater AFPI charges shall be effective on or after the stamped approval date of the tariff sheet, provided future customers have been noticed pursuant to Rule 25-30.475(2), Florida Administrative Code. The beginning date of the AFPI charges is January 1, 1999. In the event of a protest to this Order, Wastewater Tariff Sheet No. 16.2

containing AFPI charges for the George Mayo Subdivision shall be placed in effect, subject to refund, pending resolution of the protest. In no event shall the rates be effective for services rendered prior to the stamped approval date.

SECURITY IN THE EVENT OF PROTEST

Because the number of future customers to be connected to the utility's system is not readily certain, the most appropriate security for AFPI charges is an escrow agreement. An escrow agreement is the only security which can guarantee, with certainty, the amount of AFPI charges collected. Therefore, in the event of a protest, the utility shall provide an escrow agreement to guarantee the revenues collected subject to refund.

An escrow account shall be established between the utility and an independent financial institution pursuant to a written escrow agreement. The 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 this Commission for the purpose set forth above; that no withdrawals of funds shall occur without the prior approval of the Commission through the Director of the Division of Records and Reporting; that the account shall be interest bearing; that information concerning that escrow account shall be available from the institution to the Commission of its representative at all times; that the amount of any AFPI charges collected subject to refund shall be deposited in the escrow account within seven days of receipt; and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

The escrow agreement shall also state the following: that if a refund to the customers is required, all interest earned on the escrow account shall be distributed to the customers; and that if a refund to the customers is not required, the interest earned on the escrow account shall revert to the utility. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

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.

SUSPENSION OF WATER AFPI CHARGES

Pursuant to Section 367.091(6), Florida Statutes, the water AFPI tariff sheets proposed by the utility become effective within sixty (60) days after filing, unless we vote to withhold consent to operation of any or all portions of the new rate schedules, giving a reason or statement of good cause for withholding our consent.

Section 367.091(3), Florida Statutes, states that the utility's rates, charges, and customer service policies must be contained in a tariff approved by and on file with the Commission.

We have reviewed the filing and have considered the utility's water proposal. However, we believe it is reasonable and necessary to require further amplification and explanation of the water proposal and to require production of corroborative information, if necessary. We therefore suspend Tradewinds' proposed water AFPI charges for the George Mayo Subdivision.

This docket shall remain open to allow time to require further amplification and explanation of the utility's water AFPI proposal.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that each of the findings made in the body of this Order is hereby approved in every respect. It is further

ORDERED that Tradewinds Utilities, Inc.'s application for wastewater AFPI charges is hereby approved as set forth in the body of this Order. It is further

ORDERED that the provisions of this Order regarding the approval of Tradewinds Utilities, Inc.'s application for wastewater allowance for funds prudently invested charges 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 the wastewater AFPI charges approved herein shall be effective on or after the stamped approval date of the tariff

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sheet, provided future customers have been noticed pursuant to Rule 25-30.475(2), Florida Administrative Code. It is further

ORDERED that upon expiration of the protest period, if no timely protest is filed by a substantially affected person, Tradewinds Utilities, Inc.'s wastewater allowance for funds prudently invested tariff shall remain in effect with any charges held subject to refund as provided for herein, pending resolution of the protest. It is further

ORDERED that Tradewinds Utilities, Inc. proposed water AFPI charges is hereby suspended. It is further

ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission this 21st day of February, 2000.

Blanca S. Bayó, Director
Division of Records and Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

JSB

NOTICE OF FURTHER PROCEEDINGS

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.

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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 wastewater tariff 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 March 13, 2000.

In the absence of such a petition, the portion of this Order issued as proposed action 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.

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.

M E M O R A N D U M

February 21, 2000

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FEB 21 AM 11:36
RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (BRUBAKER) *JSB*

RE: DOCKET NO. 991835-WS - APPLICATION FOR ALLOWANCE FOR FUNDS PRUDENTLY INVESTED (AFPI) CHARGE FOR ADDITIONAL WATER IMPROVEMENTS AND FOR ADDITIONAL LINES ASSOCIATED WITH WASTEWATER EXTENSION INTO GEORGE MAYO SUBDIVISION IN MARION COUNTY, BY TRADEWINDS UTILITIES, INC.

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Attached is an ORDER APPROVING WASTEWATER AFPI CHARGES AND SUSPENDING WATER AFPI CHARGES, to be issued in the above-referenced docket.

(Number of pages in order - 8)

*faxed
mailed - 40*

JSB/lw0

Attachment

cc: Division of Water and Wastewater (Willis, Butts, Rendell)

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