

Original

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-00-1064-PCO-SU  
ISSUED: June 5, 2000

ORDER GRANTING IN PART AND DENYING IN PART LINDRICK'S SECOND MOTION FOR ABATEMENT AND CONTINUANCE, REQUIRING STATUS REPORT AND SETTING NEW CONTROLLING DATES

This docket was opened in response to a Petition for a Limited Proceeding to Implement a Two-Step Increase in Wastewater Rates filed by Lindrick Service Corporation (Lindrick or utility) on February 12, 1998. In response to this petition, the Commission authorized an emergency rate increase by Order No. PSC-99-1010-PCO-SU, issued May 20, 1999. Also, by Proposed Agency Action Order No. PSC-99-1883-PAA-SU, issued September 21, 1999, the Commission authorized temporary rates. Both the emergency and temporary rate increases were approved subject to refund and protected by an irrevocable letter of credit.

By Order No. PSC-99-1883-PAA-SU, the Commission also proposed to allow the temporary rates as final rates. However, because that action was protested, a formal hearing is scheduled in this matter.

Lindrick had been negotiating with the City of Port Richey (City) for the purchase of the utility by the City. A tentative agreement for the purchase of the utility was reached in January 2000, and, on January 26, 2000, Lindrick filed its first Motion for Abatement and Continuance and Request for Expedited Ruling (First Motion). This First Motion was granted in part and denied in part by Order No. PSC-00-0269-PCO-SU, issued February 8, 2000. Pursuant to that Order, discovery was abated through May 31, 2000, new controlling dates were set, and the hearing was continued to a later date. However, subsequent to the issuance of the above-noted order, the City formally terminated negotiations with Lindrick for the purchase of Lindrick's assets.

Lindrick filed its Second Motion for Abatement and Continuance (Second Motion) on May 19, 2000. As grounds for this Second Motion, Lindrick states that it has been negotiating with the Office of Public Counsel (OPC) and the customers for a final

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settlement of this docket. Lindrick asserts that there appears to be a reasonable prospect for this case to settle, and thereby avoid the unnecessary expenditure of time, rate case expense and resources on preparing for and proceeding through a final hearing. Lindrick further asserts that pending the conclusion of settlement negotiations (or still possibly a sale), Lindrick's customers will remain fully protected for any refund requirement by the Amended Irrevocable Letter of Credit on file with this Commission.

Lindrick requests that all controlling dates reflected in Order No. PSC-00-0269-PCO-SU be canceled and rescheduled following the filing of a report (update) by Lindrick on or before June 30, 2000 on the status of the settlement negotiations (or sale), and that new dates for a final hearing, if a final hearing becomes necessary, be scheduled prior to March 1, 2001. Although the OPC did not acquiesce in Lindrick's First Motion for Abatement, it states that it does not object to this Second Motion.

Upon review of Lindrick's Second Motion, it appears that Lindrick has demonstrated that, in order to avoid needless cost, it would be appropriate to continue the hearing to a later date. However, it appears that a full abatement would not be in the public interest. Although the emergency and temporary rates are being collected subject to refund, and the customers are fully protected by the letter of credit, the limited proceeding should be completed as expeditiously as possible in the event that settlement negotiations (or a sale) do not come to fruition. Therefore, the utility's request for abatement and continuance shall be granted in part, and denied in part, as set forth below. Further, the Chairman's Office has approved the moving of the hearing from October 4-5, 2000, to February 7-8, 2001.

The Second Motion is granted to the extent that the hearing shall be moved from October 4-5, 2000, to February 7-8, 2001. Although an abatement and a continuance is granted, it should be noted that this hearing was originally scheduled for June 21-22, 2000, and the parties should make every effort to proceed with all due speed to reach a settlement agreement. The utility shall file a status report (update) on or before June 30, 2000 on the status of the settlement negotiations (or sale). All discovery and pending discovery shall be abated through September 22, 2000, unless a party states that negotiations for a settlement have reached an impasse and moves that the abatement should be lifted,

in which case, that motion, and any response of the other parties

will be considered. If a settlement has not been reached (or the utility has not been sold) by that date, discovery will be reopened and all parties shall proceed with the processing of this case. The new controlling dates shall be established as follows:

- 1) Utility's direct testimony and exhibits October 24, 2000
- 2) Intervenors' direct testimony and exhibits December 1, 2000
- 3) Staff's direct testimony and exhibits, if any December 21, 2000
- 4) Rebuttal testimony and exhibits January 12, 2001
- 5) Prehearing Statements January 12, 2001
- 6) Prehearing Conference January 23, 2001
- 7) Hearing February 7-8, 2001
- 8) Briefs March 8, 2001

Based on the foregoing, it is

ORDERED by E. Leon Jacobs, Jr., as Prehearing Officer, that Lindrick Service Corporation's Second Motion for Abatement and Continuance is hereby granted in part and denied in part as set forth in the body of this Order. It is further

ORDERED that Lindrick Service Corporation shall file a status report (update) on or before June 30, 2000, on the status of the settlement negotiations (or sale). It is further

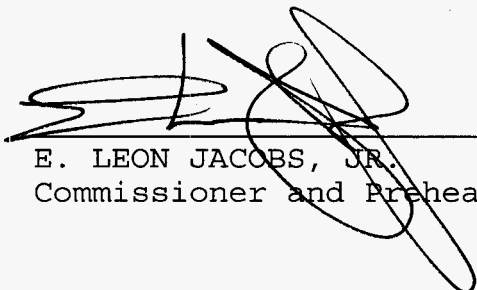
ORDERED that all discovery and pending discovery shall be abated through September 22, 2000. It is further

ORDERED that this abatement may be canceled as set forth in the body of this Order. It is further

ORDERED that the controlling dates shall be modified as set forth in the body of this Order.

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By ORDER of Commissioner E. Leon Jacobs, Jr. as Prehearing Officer, this 5th day of June, 2000.



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E. LEON JACOBS, JR.  
Commissioner and Prehearing Officer

( 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.

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

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review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.