

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for original certificates for an existing utility providing water and wastewater service in Polk County by New River Ranch, L.C. d/b/a River Ranch.

DOCKET NO. 971185-WS  
ORDER NO. PSC-00-2242-FOF-WS  
ISSUED: November 27, 2000

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman  
E. LEON JACOBS, JR.  
LILA A. JABER  
BRAULIO L. BAEZ

ORDER DECLINING TO REQUIRE CUSTOMER USAGE AND METER  
INSTALLATION COST DATE AT THIS TIME AND CLOSING DOCKET

BY THE COMMISSION:

On September 11, 1997, New River Ranch, L.C. d/b/a River Ranch (NRR or utility) filed an application for a grandfather certificate to provide water and wastewater service in Polk County, pursuant to Section 367.171, Florida Statutes. Because NRR did not own the system when the Commission received jurisdiction in Polk County on May 14, 1996, the utility was required to file an application for original certificates. By Order No. PSC-99-0254-FOF-WS, NRR was granted Certificates Nos. 603-W and 519-S in this docket.

NRR is a Class C utility that serves a resort area known as River Ranch, which includes a 367-unit recreational vehicle (RV) park, a 192-unit condominium village, 119 homes in Long Hammock and 29 homes in River Ranch Shores. The utility also serves restaurants, a golf course, a marina, offices and shops.

According to the Polk County Health Department (PCHD), the utility had seven water items needing correction. Five of the seven items have been corrected. The other two items are reported to be corrected, but need to be verified by the PCHD. According to

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a representative of the Department of Environmental Protection (DEP), the wastewater system has some vitrified clay collection system pipes which have collapsed. The wastewater plant does not appear to be working properly due to sand and debris, effluent appears to be turbid, and the clarifier needs replacement parts. Also, the gas chlorination system does not have all of the safety equipment needed and the plant stairs appear to be unsafe.

Section 367.011(2), Florida Statutes, gives the Commission exclusive jurisdiction over each utility with respect to its authority, service, and rates. By Order No. PSC-99-024-FOF-WS, we allowed the utility to continue charging its current rates and charges, which included flat rates for some of the utility's customers. The Order stated that, although the collection of metered rates is preferred, no information was available to indicate how much it would cost to install meters. Because we did not have sufficient information, we were unable to make a determination that collection of metered rates would justify the cost of metering. To make that determination, additional information regarding customer usage and the cost to install meters was needed. The docket remained open pending receipt of the information and a determination regarding metering and the appropriate rates and charges.

When NRR acquired the utility in January 1997, the rates in effect were flat rates. The utility has continued to charge these rates since that time. Currently, NRR charges three commercial accounts fixed monthly charges through their homeowners' associations. These accounts are a 367-unit RV park (River Ranch RV Resort) which pays \$10.50 per unit; 192-unit condominium resort area (River Ranch Inn and Cottages) which pays \$7.00 per unit; and a residential community (Long Hammock) consisting of 119 homes that pay \$10.50 each. Also, outside the park area, 29 single-family homes in the River Ranch Shores area are individually billed on a quarterly basis. Some customers in the River Ranch Shores area pay \$45.60; others pay \$40.50.

Generally, we have approved the retention of existing rates in grandfather applications or applications for certificates for utilities already in existence. However, there is no incentive to conserve water when flat rates are charged. Further, unless otherwise allowed by the Commission, collection of metered rates is

prescribed by Rule 25-30.255, Florida Administrative Code. Installation of meters is also increasingly being mandated by the water management districts. As stated previously, Order No. PSC-99-0254-FOF-WS authorized NRR to continue to charge its existing rates and charges.

NRR is located in the South Florida Water Management District (SFWMD). The community is a vacation area that experiences peak water usage from about October through March, with the demand for water increasing during holiday weekends. In an attempt to determine whether the utility should be required to install meters, the our staff spoke with representatives of the SFWMD. According to SFWMD, the utility is not in a critical water supply problem area. Critical areas are those areas that have experienced water supply problems or are anticipated to have water supply problems in the next 20 years. Further, according to SFWMD, metering by individual homes is not required by SFWMD in the area.

Several attempts were made by the Commission staff to obtain the information necessary to determine the feasibility of metering. In August 2000, we were informed by the utility's operator and Ocwen Federal Bank's attorney, Ms. Ellen Avery-Smith, that the utility was in foreclosure. The Ocwen Federal Bank is the bank that initiated the foreclosure proceedings against the utility. According to the information provided, Mr. Andrew J. Bolnick, has been appointed receiver by the Circuit Court of the Eighteenth Judicial Circuit in and for Brevard County, Case No. 05-1999-CA 57677-XXXX-XX-C, Order dated February 28, 2000, to operate the utility. By letter dated September 7, 2000, Ms. Avery-Smith requested that the Commission grant the receiver additional time to become familiar with the operation and management of the utility before undertaking a metering study or metering changes.

Typically, initial conservation measures which we address include metering and exploration of a conservation-oriented rate structure. However, given the utility's foreclosure status, the appointment of a receiver and SFWMD's position, we shall not require the utility to provide customer usage and meter installation cost data at this time.

The Commission staff has discussed the option of filing for a staff-assisted rate case with the bank and utility representatives.

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Further, at the November 7, 2000 agenda conference, the Commission staff indicated its willingness to assist the bank in any way necessary to complete the application for a staff-assisted rate case.

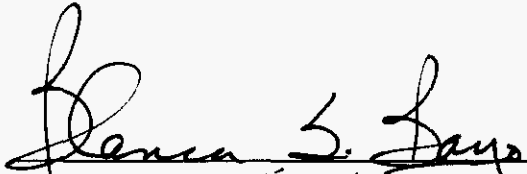
In view of the foregoing, we find that it is in the best interests of the utility and its customers to leave the existing rates and charges in place until such time as the utility files for a staff-assisted rate case. Further, we do not find it appropriate to require the utility to provide customer usage and meter installation cost data at this time.

Based upon the foregoing, it is

ORDERED by the Florida Public Service Commission that the receiver for New River Ranch, L.C. d/b/a River Ranch, Mr. Andrew J. Bolnick, shall not be required to provide customer usage and meter installation cost data at this time. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 27th day of November, 2000.

  
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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.

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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.