

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for approval of revisions to tariff for irrigation service in Spruce Creek system in Marion and Sumter Counties, and to recognize and approve billing of base facility charge on a monthly basis by Florida Water Services Corporation.

DOCKET NO. 020483-WS
ORDER NO. PSC-02-1095-TRF-WS
ISSUED: August 9, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER APPROVING TARIFF REVISIONS RECOGNIZING THE BILLING OF A
BASE FACILITY CHARGE ON A MONTHLY BASIS

BY THE COMMISSION:

Case Background

The Spruce Creek system (Spruce Creek or system) is a water and wastewater system owned by Florida Water Services Corporation (Florida Water or FWSC). This system provides service to approximately 3,150 residential, commercial, and irrigation water customers as well as 2,300 residential and commercial wastewater customers throughout three non-contiguous adult living communities located in Marion County. Spruce Creek's service territory includes a small area in Sumter County. The Spruce Creek system is also located across two water management districts.

The portion of Spruce Creek that is in the St. John's River Water Management District (SJRWMD) is in a Water Use Caution Area. The portion of Spruce Creek that is in the Southwest Florida Water

DOCUMENT NUMBER DATE

08405 AUG-98

FPSC-COMMISSION CLERK

Management District (SWFWMD) is not in a Water Use Caution Area. Based on the 2001 annual report on file with the Commission, the system's total water revenues were \$1,235,373, with a net operating income of \$533,494. Total wastewater revenues were \$554,666, with a net operating loss of \$201,744.

The Spruce Creek system was originally formed in 1989 by Spruce Creek South Development of Ocala, Inc. to provide water and wastewater services to the residents of its Spruce Creek South development near Ocala. The Commission granted Water Certificate No. 511-W by Order No. 20933, issued March 24, 1989, in Docket No. 881597-WU and Wastewater Certificate No. 467-S by Order No. 25157, issued October 3, 1991, in Docket No. 910746-SU. Subsequent to certification, the utility has had five territory amendments to expand the Spruce Creek South service area and to provide service to two new adult communities called Spruce Creek Golf and Country Club, in Summerfield, and Spruce Creek Preserve, in Dunnellon.

On June 29, 2000, Spruce Creek entered into an Asset Purchase Agreement with Florida Water for the sale and purchase of the utility facilities. On August 11, 2000, Spruce Creek and FWSC filed a joint application for transfer of all water and wastewater facilities of Spruce Creek to FWSC, for cancellation of Certificates Nos. 511-W and 467-S held by Spruce Creek, and for amendment of Certificates Nos. 373-W and 322-S held by Florida Water. Along with the application, Spruce Creek and FWSC also filed a joint petition for approval of five ancillary agreements. The transfer was approved by Order No. PSC-01-2311-PAA-WS, issued November 26, 2001, in Docket No. 001122-WS. The utility was ordered to continue to charge the rates and charges approved for Spruce Creek South Utilities, Inc., until authorized to change by the Commission.

The purpose of this order is to correct an oversight in the billing frequency for the irrigation base facility charge discussed in Order No. PSC-01-2311-PAA-WS, issued November 26, 2001, in Docket No. 001122-WS, which is in conflict with the developer's agreement. We have jurisdiction pursuant to Section 367.091, Florida Statutes.

Decision

By Order No. PSC-01-2311-PAA-WS, issued November 26, 2001, in Docket No. 001122-WS, we approved the transfer of all water and wastewater facilities of Spruce Creek to Florida Water. Further, we approved two Irrigation Agreements (agreements): one between Spruce Creek and the Spruce Creek Golf and Country Club Homeowners' Association; the other between Spruce Creek and the Spruce Creek Preserve Homeowners' Association. As a result of approval of the transfer, Florida Water assumed the duties under the two agreements.

The agreements state that "the utility will provide each [homeowner association] with an annual statement on or before March 10th of each year indicating the amount of base facility charge due based on the agreed-upon phase-in schedule." Revised tariff sheets implementing the provisions of the Order became effective March 15, 2002. However, Spruce Creek has determined that the above quoted provision of the Order and the approved tariff sheets do not accurately reflect the agreements. Currently, the tariff sheets indicate that payment of the base facility charge is on a yearly basis, instead of on a monthly basis as written in the agreements. The utility is requesting that the tariff sheets be revised to indicate billing will be done on a monthly basis.

FWSC has stated that it was the original intention of both Spruce Creek and Florida Water in the agreements that the base facility charge, using the phase-in schedule, would be charged on a monthly basis. As set forth in the agreements, only the reimbursement for the regulatory assessment fees on the unbilled base facility charges would be billed on an annual basis. FWSC, in its application for transfer, filed appropriate tariff sheets for the irrigation service indicating a monthly billing of the base facility charge. Consequently, Florida Water has been billing the homeowner associations for the base facility charges on a monthly basis.

Since the existing tariff sheets do not reflect the original intention of the agreements to bill the base facility charges on a monthly basis, we approve FWSC's request to revise the existing tariffs to reflect the actual billing practices.

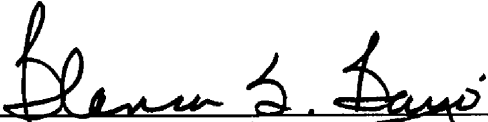
ORDER NO. PSC-02-1095-TRF-WS
DOCKET NO. 020483-WS
PAGE 4

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Water Services Corporation's request to revise the tariff to recognize the billing of a base facility charge on a monthly basis in the Spruce Creek System in Marion and Sumter Counties is hereby approved. It is further

ORDERED that if no timely protest is filed with 21 days of the issuance date of the Order, this docket shall be closed upon the issuance of a Consummating Order.

By ORDER of the Florida Public Service Commission this 9th day of August, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

KNE

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.

ORDER NO. PSC-02-1095-TRF-WS
DOCKET NO. 020483-WS
PAGE 5

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 this 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on August 30, 2002.

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.