

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase
in wastewater service
availability charges in Lee
County by Forest Utilities, Inc.

DOCKET NO. 011682-SU

In re: Petition by Forest
Utilities, Inc. for
establishment of allowance for
funds used during construction
(AFUDC) rate in Lee County.

DOCKET NO. 011683-SU
ORDER NO. PSC-02-1239-PAA-SU
ISSUED: September 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

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING INCREASE IN WASTEWATER SERVICE
AVAILABILITY CHARGES AND ESTABLISHMENT OF ALLOWANCE
FOR FUNDS USED DURING CONSTRUCTION RATE FOR
FOREST UTILITIES, INC.

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service
Commission that the action 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

Forest Utilities, Inc. (Forest or utility) is a Class B
wastewater-only utility in Lee County. As of December 31, 2001,
the utility served 2,059 wastewater customers and reported

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operating revenues of \$646,606 and a net operating loss of \$18,585.

On December 31, 2001, the utility filed a petition for the establishment of an allowance for funds used during construction (AFUDC) rate and an application for increase in its wastewater service availability charges. Docket No. 011682-SU was established for the requested increase in service availability charges, and Docket No. 011683-SU was established for the AFUDC rate request.

During the years 2002 through 2010, the utility plans to complete substantial improvements to its collection system and its treatment plant and disposal facilities. Forest states that these improvements are necessary to maintain compliance with the Florida Department of Environmental Protection rules and to accommodate customer growth through buildout of the service area.

The utility requests establishment of an AFUDC rate in order for Forest to accurately accrue and recover its costs of providing service. AFUDC is an accounting entry designed to permit a utility recovery of the cost associated with financing eligible construction activities. AFUDC is not a tariffed rate or charge.

The utility's present system capacity charge was established in Order No. 14001, issued January 14, 1985, in Docket No. 840196-SU. Forest has proposed to increase its system capacity charge from \$625 to \$1,998 per equivalent residential connection (ERC).

We have jurisdiction to consider these matters pursuant to Sections 367.0822, 367.101, and 367.121, Florida Statutes.

Appropriate Return on Equity (ROE)

The utility's current ROE of 15.60% is unreasonable given today's economic climate. Considering the length of time since the utility's last rate case, we find it necessary to revise the utility's ROE to reflect the cost rate calculated using our current leverage formula.

In its petition for an AFUDC rate, the utility utilized a cost rate of 9.93% for common equity, pursuant to the leverage formula established by Order No. PSC-00-1162-PAA-WS, issued June 26, 2000, in Docket No. 000006-WS. Pursuant to Order No. PSC-02-0898-PAA-WS,

issued July 5, 2002, in Docket No. 020006-WS, we ordered that the leverage formula methodology approved in that Order be applied to all water and wastewater utilities that currently have an authorized return on equity. Using this leverage formula, Forest's ROE would have been 11.10%, with a range of 10.10% to 12.10%. However, timely protests were filed to Order No. PSC-02-0898-PAA-WS. Thus, until a final decision is made in that docket, the 2001 leverage formula is still in effect.

In order to calculate the ROE on a prospective basis, we believe that it is appropriate to use Forest's average capital structure for the year ended September 30, 2001, from the utility's petition. Using this capital structure, the resulting equity ratio is 33.75%. Consistent with the leverage formula from Order No. PSC-01-2514-FOF-WS, issued December 24, 2001, in Docket No. 010006-WS, the ROE for Forest is 11.34%. Based on discussions with the utility, Forest agrees that it is appropriate to use the current leverage formula established in Docket No. 010006-WS, in order to reset the utility's ROE.

Therefore, the utility's ROE shall be reduced to 11.34% with a range of 10.34% to 12.34%. This ROE shall be effective as of the date of the Order in this docket, Docket No. 011683-SU, is final and shall be applied to any future proceedings of this utility, including, but not limited to, price indexes, interim rates, and overearnings.

Appropriate AFUDC Rate

Rule 25-30.116(2)(a), Florida Administrative Code, provides that an AFUDC rate shall be determined using the utility's most recent 12-month average embedded cost of capital. Forest calculated the average cost of capital using the 12-month period ended September 30, 2001. The utility's capital structure is comprised of common equity, long-term debt, customer deposits, and deferred income taxes. According to its petition, Forest has requested an AFUDC rate of 10.26%.

Based on our review, we find that, with the exception of the cost rate for common equity, the utility's capital structure reflected in its petition is reasonable. Rule 25-30.116(2)(b), Florida Administrative Code, provides that the cost rate for common

equity shall be the midpoint of the last allowed return on common equity. As discussed previously, we have reset the utility's cost of equity for all regulatory purposes, including the calculation of its AFUDC rate to 11.34%.

Based on the above adjustment, we hereby approve an annual AFUDC rate of 10.73% and a discounted monthly rate of 0.893828%, as reflected on Schedule No. 1. Pursuant to Rule 25-30.116(5), Florida Administrative Code, the approved rate shall be applicable for eligible construction projects beginning October 1, 2001.

System Capacity Charge

On December 31, 2001, Forest filed an application to increase its system capacity charge from \$625 to \$1,998 per residential ERC. By Order No. PSC-02-0314-PCO-SU, issued March 11, 2002, we suspended the utility's proposed system capacity charge.

During the years 2002 through 2010, Forest plans to complete several improvements to its collection system and its treatment plant and disposal facilities. For its collection system, the utility has planned the following improvements: 1) inflow-infiltration evaluation and system rehabilitation, 2) lift station improvements, and 3) emergency lift station pump and portable generator. For its treatment plant and disposal facilities, Forest has planned the following improvements: 1) treatment plant emergency generator with enclosure, 2) sludge drying bed expansion and holding bin, 3) automatic backwash effluent filter, 4) chlorine contact chamber and chlorine storage enclosure, 5) flow equalization tank addition, and 6) grit removal and automatic screening facilities. Forest states that these improvements are necessary to maintain compliance with the Florida Department of Environmental Protection rules and to accommodate customer growth through buildout of the service area.

We have reviewed the above projected plant additions which were developed by Source, Inc. (Source), an engineering firm retained by the utility. Source's engineering report is comprised of an itemized listing of all plant additions, the estimated cost of each addition, and the performance dates of each addition. Based on our review, the costs, functions, and performance dates of each additional plant component are reasonable. Further, Source

projected the utility's growth through buildout to 2010. Source indicated that it determined the projected growth by utilizing the planned construction activity of developers in Forest's service area for existing and new development projects. We find that Source's method to project the growth of the utility's service area is reasonable because it takes into consideration all currently existing and planned development projects.

A system capacity charge is designed to defray a portion of the cost of the plant, as well as a portion of the cost of lines. A plant capacity charge represents the reimbursement by a developer or a customer to offset the cost of the treatment plant facilities. A main extension charge represents the reimbursement by a developer or a customer to offset the cost of the lines.

We have previously approved separate service availability charges for the cost of plant and the cost of lines, instead of one system capacity charge. See Order No. PSC-00-1528-PAA-WU, issued August 23, 2000, in Docket 991437-WU and Order No. PSC-99-1173-PAA-WU, issued June 7, 1999, in Docket No. 981243-WU. Therefore, we find it appropriate to cancel Forest's existing system capacity charge and implement a plant capacity charge and a main extension charge.

Based on our review of the utility's application, we find that four adjustments are necessary. First, the utility utilized its requested 10.26% rate to calculate the AFUDC for its projected plant investment in this service availability case. As discussed previously, we determined that the appropriate annual AFUDC rate be 10.73%. As such, we have utilized this rate of 10.73% to capitalize AFUDC on the utility's projected plant.

Second, Forest used an incorrect depreciation rate for Tools, Shop & Garage Equipment. Pursuant to Rule 25-30.140, Florida Administrative Code, the appropriate depreciation rate for that account is 6.25%. We have corrected this to calculate the projected accumulated depreciation.

Third, the utility projected 42 equivalent residential connections (ERCs) to be connected in 2002. Since the change in the service availability charges will be effective in September 2002, we will assume that three-fourths of the 42 ERCs for 2002

will be connected to the utility's wastewater system at Forest's \$625 existing system capacity charge.

Lastly, Forest's calculation of its projected accumulated amortization of CIAC contained an error. As a result, the utility's projected December 31, 2010, accumulated amortization of CIAC balance was overstated, which in turn understated the CIAC ratio at buildout. In our analysis, we have appropriately matched CIAC additions from capacity charges for each year from 2002 to 2010 to calculate the projected accumulated amortization of CIAC.

Pursuant to 25-30.580(1), Florida Administrative Code, the maximum amount of CIAC, net of amortization, should not exceed 75% of the total original cost, net of accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at design capacity. The purpose of this cut-off point is to encourage utilities to retain a 25% investment and maintain an interest in its facilities. Rule 25-30.580(2), Florida Administrative Code, also states that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by the sewage collection system.

In determining what the appropriate plant capacity charge should be, we took the total treatment plant in service of \$2,741,982 at buildout and divided it by the total plant capacity in ERCs of 2,941. This resulted in a plant capacity charge of \$933 per residential ERC and a plant capacity charge of \$5.488 per gallon for all others. This calculation is shown in Schedule No. 2. Using the \$933 plant capacity charge, we kept adjusting the main extension charge until the projected CIAC ratio at buildout equaled 75%. As a result, our analysis indicates that the main extension charge shall be \$1,043 per residential ERC and \$6.135 per gallon for all others. Schedule No. 4 reflects that these approved charges are within the guidelines set forth in Rule 25-30.580(1) and (2), Florida Administrative Code.

Therefore, we hereby approve a plant capacity charge of \$933 and a main extension charge of \$1,043. These approved service availability charges are shown on Schedule No. 3. The utility shall file the appropriate revised tariff sheets and a proposed notice within twenty days of the effective date of the PAA Order. The revised tariff sheets shall be approved administratively upon

our staff's verification that the tariffs are consistent with our decision and the utility's proposed notice is adequate. If the revised tariff sheets are approved, the service availability charges shall become effective for connections made on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(2), Florida Administrative Code, providing the appropriate notice has been made.

The notice shall be mailed or hand delivered to all persons in the service area who have filed a written request for service within the past 12 calendar months or who have been provided a written estimate for service within the past 12 calendar months. The utility shall provide proof of the date the notice was given within 10 days after the date of the notice.

This Order shall be issued as Proposed Agency Action (PAA), and if there is no timely protest to our PAA Order by a substantially affected person, the PAA Order on the service availability charges will become final upon the issuance of a Consummating Order. The utility shall file the appropriate revised tariff sheets and a proposed notice within twenty days of the effective date of the PAA Order. Docket No. 011682-SU shall be closed upon our staff's verification that Forest has filed revised tariff sheets consistent with our decision and that the appropriate notice has been made. Once our staff has verified that the utility's revised tariff sheets are consistent with the Commission's decision and that the appropriate notice has been made, Docket No. 011682-SU shall be closed administratively.

If a timely protest is filed, Docket No. 011682-SU shall remain open and the utility's proposed tariff shall go into effect, subject to refund, pending resolution of the protest. An escrow agreement is the only security that can guarantee, with certainty, the amount of service availability charges collected subject to refund. Thus, in the event of a protest, the utility shall file an escrow agreement to guarantee the difference between the utility's existing and proposed system capacity charge collected subject to refund, until the protest is resolved. Further, pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall be required to provide a report by the 20th day of each month indicating the monthly and total amount of service availability

charges collected subject to refund at the end of the proceeding month.

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 above; that no withdrawals of funds shall occur without the prior approval of the Commission through the Director of the Division of the Commission Clerk and Administrative Services; that the account shall be interest bearing; that information concerning the escrow account shall be available from the institution to the Commission or its representative at all times; that the amount of service availability 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 builders/developers is required, all interest earned on the escrow account shall be distributed to the builders/developers; and if a refund to the builders/developers 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.

Further, if no timely protest to the approved AFUDC rate is received upon expiration of the protest period, the PAA Order on the AFUDC rate shall become final upon the issuance of a Consummating Order, and Docket No. 011683-SU shall be closed.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Forest Utilities, Inc.'s return on equity shall be reduced to 11.34% with

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a range of 10.34% to 12.34%, effective as of the date of this Order in this docket, Docket No. 011683-SU, is final, and shall be applied to any future proceedings of this utility, including, but not limited to, price indexes, interim rates, and overearnings. It is further

ORDERED that an annual AFUDC rate of 10.73% and a discounted monthly rate of 0.893828% is hereby approved, and shall be applicable for eligible construction projects beginning October 1, 2001. It is further

ORDERED that each of the findings contained in the body of this Order is hereby approved in every respect. It is further

ORDERED that Forest Utilities Inc.'s existing system capacity charge shall be discontinued. It is further

ORDERED that a plant capacity charge of \$933 per residential ERC and a plant capacity charge of \$5.488 per gallon for all others shall be implemented. It is further

ORDERED that the main extension charge shall be \$1,043 per residential ERC and \$6.135 per gallon for all others. It is further

ORDERED that the service availability charges shall become effective for connections made on or after the stamped approval date of the revised tariff sheets, pursuant to Rule 25-30.475(2), Florida Administrative Code, providing the appropriate notice has been made. It is further

ORDERED the notice shall be mailed or hand delivered to all persons in the service area who have filed a written request for service within the past 12 calendar months or who have been provided a written estimate for service within the past 12 calendar months. The utility shall provide proof of the date the notice was given within 10 days after the date of the notice. It is further

ORDERED that the provisions of this Order, 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

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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 the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that in the event this Order becomes final, Docket No. 011682-SU shall be closed administratively once our staff has verified that the matters specified herein have been completed. It is further

ORDERED that in the event this Order becomes final, Docket No. 011683-SU shall be closed.

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

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

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Hearing
Services

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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 that is available under Section 120.57, 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 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.

The action proposed herein 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 the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on September 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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

Forest Utilities, Inc. Commission Approved AFUDC Rate 12-Month Period Ended September 30, 2001						Schedule No. 1 Docket No. 011683-SU
<u>Class of Capital</u>	<u>12-Month Average</u>	<u>Percent of Capital</u>	<u>Utility Requested Cost Rates</u>	<u>Utility Weighted Cost</u>	<u>Commission Approved Cost Rates</u>	<u>Weighted Cost</u>
Common Equity	\$164,461	33.75%	9.93%	3.35%	11.34%	3.83%
Long-Term Debt	312,322	64.09%	10.73%	6.88%	10.73%	6.88%
Customer Deposits	2,345	0.48%	6.00%	0.03%	6.00%	0.03%
Deferred Income Taxes	8,174	1.68%	0.00%	0.00%	0.00%	0.00%
Total	<u>\$487,302</u>	<u>100.00%</u>		<u>10.26%</u>		<u>10.73%</u>
Discounted Monthly AFUDC Rate				<u>0.854211%</u>		<u>0.893828%</u>

Forest Utilities, Inc.	Schedule No. 2
Docket No. 011682-SU	

ANALYSIS OF PLANT CAPACITY CHARGE

<u>ACCT. NO.</u>	<u>ACCOUNT NAME</u>	<u>PLANT IN SERVICE AT BUILDOUT</u>
353	Land and Land Rights	\$26,690
354	Structures and Improvements	386,532
355	Power Generation Equipment	95,823
380	Treatment and Disposal Equipment	<u>2,233,608</u>
		<u>\$2,742,653</u>
Total Capacity in ERCs Plant is Capable of Serving		2,941
Total Treatment Plant in Service At Buildout		<u>\$2,742,653</u>
Divided by: Total Capacity in ERC		2,941
Plant Capacity Charge Per ERC		<u>\$933</u>

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Forest Utilities, Inc.

Schedule No. 3

Docket No. 011682-SU

Service Availability Charges - Wastewater Only

	<u>Present</u>	<u>Company Proposed</u>	<u>Commission Approved</u>
<u>System Capacity Charge:</u>	\$625	\$1,998	No Charge
<u>Plant Capacity Charge:</u>			
Residential-per ERC (170 gpd)	None	None	\$933
All other-per gallon	None	None	\$5.488
<u>Main Extension Charge:</u>			
Residential-per ERC (170 gpd)	None	None	\$1,043
All other-per gallon	None	None	\$6.135

UTILITY CO.: Forest Utilities, Inc.		SCHEDULE NO. 4								
Docket No.: 011682-SU										
Wastewater Operation										
Commission Approved										
Plant Capacity Charge:	\$933									
Main Extension Charge:	\$1,043									
	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Capacity	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000
Demand	362,950	370,090	386,750	405,450	432,650	454,155	471,240	482,545	493,000	499,970
% Used	72.59%	74.02%	77.35%	81.09%	86.53%	90.83%	94.25%	96.51%	98.60%	99.99%
Growth (in ERCs)		42.0	98.0	110.0	160.0	126.5	100.5	66.5	61.5	41.0
Utility Plant	\$3,302,461	\$3,439,691	\$3,913,663	\$4,558,176	\$4,818,936	\$5,209,147	\$5,951,891	\$5,993,591	\$6,350,498	\$6,392,198
Accumulated Depreciation	(1,555,235)	(1,661,823)	(1,779,022)	(1,914,430)	(2,065,131)	(2,227,704)	(2,410,947)	(2,608,292)	(2,812,856)	(3,024,640)
Net Plant	<u>\$1,747,226</u>	<u>\$1,777,868</u>	<u>\$2,134,641</u>	<u>\$2,643,746</u>	<u>\$2,753,805</u>	<u>\$2,981,443</u>	<u>\$3,540,944</u>	<u>\$3,385,299</u>	<u>\$3,537,642</u>	<u>\$3,367,558</u>
CIAC	\$2,596,054	\$2,668,852	\$3,214,440	\$3,772,676	\$4,158,095	\$4,407,940	\$4,675,844	\$4,807,185	\$4,928,651	\$5,009,628
Accumulated Amortization	(1,313,631)	(1,396,392)	(1,489,469)	(1,600,568)	(1,727,255)	(1,864,887)	(2,011,432)	(2,164,837)	(2,322,616)	(2,483,898)
Net CIAC	<u>\$1,282,423</u>	<u>\$1,272,460</u>	<u>\$1,724,971</u>	<u>\$2,172,108</u>	<u>\$2,430,840</u>	<u>\$2,543,053</u>	<u>\$2,664,412</u>	<u>\$2,642,348</u>	<u>\$2,606,035</u>	<u>\$2,525,731</u>
Net Investment	<u>\$464,803</u>	<u>\$505,408</u>	<u>\$409,670</u>	<u>\$471,638</u>	<u>\$322,965</u>	<u>\$438,390</u>	<u>\$876,532</u>	<u>\$742,951</u>	<u>\$931,607</u>	<u>\$841,827</u>
CIAC Ratio:	73.40%	71.57%	80.81%	82.16%	88.27%	85.30%	75.25%	78.05%	73.67%	75.00%