

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Charlotte County by Utilities, Inc. of Sandalhaven.

DOCKET NO. 060285-SU
ORDER NO. PSC-07-0327-PCO-SU
ISSUED: April 16, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN

ORDER GRANTING TEMPORARY SERVICE AVAILABILITY CHARGES

BY THE COMMISSION:

BACKGROUND

Utilities, Inc. of Sandalhaven (Sandalhaven or utility) is a class B wastewater utility providing service to approximately 910 customers in Charlotte County. Sandalhaven is a wholly-owned subsidiary of Utilities, Inc. In its 2005 Annual Report, the utility reported operating revenues of \$270,518 and a net operating loss of \$45,037.

On May 15, 2006, Sandalhaven filed its Application for rate increase at issue in the instant docket. The MFRs contained a number of deficiencies that required revisions. On December 28, 2006, the utility filed its Amended Application for increase in rates, which included a request for increased service availability charges. Sandalhaven requested the application be processed using the Proposed Agency Action (PAA) procedure. On January 16, 2007, the utility filed a request for authority to collect revised system capacity charges on a temporary basis, pending the determination of final rates and charges in this proceeding.

A review of the revised Minimum Filing Requirements (MFRs) indicated that they also contained a number of deficiencies. On February 9, 2007, Sandalhaven filed revisions which satisfied the MFR deficiencies, and the official filing date has been established in this proceeding as February 9, 2007.

The test year established for final rates is a projected test year ended December 31, 2007. The utility requested final rates designed to generate annual wastewater revenues of \$1,118,134. This represents a revenue increase of \$841,571 (313.33%). At the February 13, 2007, Agenda Conference, we voted to suspend Sandalhaven's final requested rates to conduct further review.

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FPSC-COMMISSION CLERK

We acknowledged the Office of Public Counsel's intervention in the case by Order No. PSC-06-0542-PCO-SU, issued June 26, 2006. We also granted intervention for Placida HG, LLP (Placida) by Order No. PSC-07-0135-PCO-SU, issued February 16, 2007.

This Order addresses Sandalhaven's request for authority to collect revised system capacity charges on a temporary basis. We grant the request for the reasons explained below. We have jurisdiction pursuant to Sections 367.011, 367.081, 367.101, and 367.121, Florida Statutes.

DECISION

Currently, Sandalhaven has an authorized residential plant capacity charge of \$1,250 per equivalent residential connection (ERC) and a per gallon charge of \$6.28 for all others. In its Amended Application for increase in rates, Sandalhaven is requesting a residential system capacity charge of \$2,627.75 per ERC and a per gallon charge of \$13.83 for all others.

According to its filing, the utility has entered into an agreement with the Englewood Water District (EWD or District) whereby the District will provide bulk wastewater treatment and disposal to serve new customers of Sandalhaven through an interconnection with the EWD's system. The utility is requesting a change in its service availability charges to enable it to pass through the costs of interconnection. Sandalhaven asserts that the proposed charges are appropriate because the customers who are to be served by the interconnection with the District's facilities should pay for the cost of this service. The utility states that the proposed charges will not affect current customers and that the number of future customers affected is approximately 1,700.

The utility has entered into certain developer agreements pursuant to which the utility will provide wastewater service to new customers within its service area. These customers may require service before we determine the final rates and charges in this proceeding, particularly if there is an intervener who protests the increase in service availability charges. The utility states that it will not be able to recover its reasonable capital costs of providing service to these new customers unless we authorize it to impose the proposed revised system capacity charges on a temporary basis, subject to refund, pending our determination of final rates and charges.

We have the authority under Chapter 367, Florida Statutes, to set temporary service availability charges pending final resolution of a utility's rate proceeding. Section 367.011(2), Florida Statutes, states that the Commission has exclusive jurisdiction over each utility with respect to its authority, service, and rates. Section 367.081(1), Florida Statutes, states that, except for pass-through and index rate adjustments, a utility may only charge rates and charges that have been approved by the Commission. Section 367.101(1) states:

The commission shall set just and reasonable charges and conditions for service availability. The commission by rule may set standards for and levels of service-availability charges and service-availability conditions. Such charges and conditions shall be just and reasonable. The commission shall, upon request or

upon its own motion, investigate agreements or proposals for charges and conditions for service availability.

Section 367.121(1)(g), Florida Statutes, provides that in the exercise of its jurisdiction the Commission shall have power to do all things necessary or convenient to the full and complete exercise of its jurisdiction.

The Commission has approved temporary service availability charges in several previous cases.¹ The Florida Supreme Court has also affirmed the Commission's authority and discretion to determine, on a case by case basis, what evidence it will consider in fixing interim rates. See Citizens of Florida v. Public Service Commission, 425 So. 2d 534, 540 (Fla. 1982), and Citizens of Fla. v. Public Service Commission, 435 So. 2d 784, 786 (Fla. 1983) ("Interim awards attempt to make a utility whole during the pendency of a proceeding without the interjection of any opinion testimony.")

According to Rule 25-30.580, Florida Administrative Code, the guidelines for designing a utility's service availability policy are as follows:

- (1) The maximum amount of contributions-in-aid-of-construction, net of amortization, should not exceed 75% of the total original cost, net accumulated depreciation, of the utility's facilities and plant when the facilities and plant are at their capacity; and
- (2) The minimum amount of contribution-in-aid-of-construction should not be less than the percentage of such facilities and plant that is represented by the water transmission and distribution and sewage collection systems.

In its revised MFRs, Sandalhaven provided a detailed cost breakdown of the direct construction and engineering costs for the interconnection with EWD, which totaled \$2,937,576 and \$138,885, respectively. According to the utility's service availability charge calculation, Sandalhaven's proposed system charges will be within the minimum and maximum CIAC guidelines pursuant to Rule 25-30.580, Florida Administrative Code. The information provided by the utility indicates a prima facie entitlement for Sandalhaven's requested temporary system capacity charges. As discussed below, the incremental temporary increase in service availability charges shall be held subject to refund. Thus, developers and others paying service availability charges will be protected if we later require the utility to refund any portion of the incremental temporary increase.

¹ See Order No. 20639, issued January 20, 1989, in Docket No. 881178-WS, In re: Application of Continental Country Club, Inc.; Order No. 20822, issued February 28, 1989, in Docket No. 880654-SU, In re: Application of Radnor/Plantation Utilities for increase in sewer rates in Martin County.; Order No. 23195, issued July 16, 1990, in Docket No. 900402-WS, In re: Application for approval of new service availability policy in Seminole County by Alafaya Palm Valley Associates, Ltd.; Order No. PSC-96-0043-FOF-SU, issued January 11, 1996, in Docket No. 951311-SU, In Re: Application for approval of increase in wastewater plant capacity charges in Brevard County by Florida Citifies Water Company. (Barefoot Bay Division).; and Order No. PSC-00-1285-FOF-WS, issued July 14, 2000, in Docket No. 960545-WS, In re: Investigation of utility rates of Aloha Utilities, Inc. in Pasco County.

Based on the above, we approve the utility's request for collection of the temporary wastewater system capacity charges of \$2,627.75 per ERC and \$13.83 per gallon for all others. The incremental increase shall be held subject to refund in the event further analysis indicates a need to reduce these charges.

The total annual temporary increase is \$122,601 for wastewater. In accordance with Rule 25-30.360, Florida Administrative Code, the potential refund of charges and interest collected is \$124,497. This amount is based on an estimated seven months of monies being collected from the temporary charges.

Sandalhaven is a wholly-owned subsidiary of UI, which provides all investor capital to its subsidiaries. We approved a cumulative corporate undertaking for UI of \$1,092,473 to secure interim rate increases for several of its subsidiaries in Florida.² The total requested cumulative corporate undertaking amount is \$1,216,970, which includes \$124,497 subject to refund for this docket.

The criteria for a corporate undertaking includes sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. Our staff has reviewed UI's financial statements from 2003 to 2005 to determine the financial condition of the parent company. The analysis shows that UI has experienced a significant decline in liquidity and interest coverage during 2005 compared to prior years. However, UI's average equity ratio over the three year period has been stable at 40%, which is sufficient in this instance based on UI's overall financial condition. Also, net income has been on average six times greater than the requested cumulative corporate undertaking amount. UI's financial performance has demonstrated adequate levels of both profitability and equity capitalization to offset the recent decline in liquidity and interest coverage. Based upon this analysis, we find that the cumulative corporate undertaking of \$1,216,970 is acceptable, contingent upon the receipt of the written guarantee of UI and written confirmation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states.

Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating the monthly and total amount collected subject to refund. Should a refund be required, the refund should 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Utilities, Inc. of Sandalhaven's request for temporary service availability charges is granted, as described in the body of this Order. It is further

² Order No. PSC-06-1006-FOF-WS, issued December 5, 2006, in Docket No. 060253-WS, In Re: Application for increase in water and wastewater rates in Marion, Orange, Pasco, Pinellas, and Seminole Counties by Utilities, Inc. of Florida.

ORDERED that the revenues shall be collected subject to refund with interest pursuant to Rule 25-30.360, Florida Administrative Code. It is further

ORDERED that a cumulative corporate undertaking of \$1,216,970 is approved, contingent upon the receipt of the written guarantee of UI and written confirmation that UI does not have any outstanding guarantees on behalf of UI-owned utilities in other states to guarantee any potential refunds of monies collected under temporary conditions during this case. It is further

ORDERED that pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th day of each month indicating the monthly and total amount collected subject to refund. It is further

ORDERED that in no instance shall maintenance and administrative costs associated with any refund be borne by the customers. It is further

ORDERED that this docket should remain open pending the Commission's final action on the utility's requested rate increase.

By ORDER of the Florida Public Service Commission this 16th day of April, 2007.



ANN COLE
Commission Clerk

(S E A L)

MCB

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; 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. A motion for reconsideration shall be filed with the Office of Commission Clerk, 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 review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.