

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for increase in wastewater rates in Seminole County by Alafaya Utilities, Inc. DOCKET NO. 060256-SU
ORDER NO. PSC-07-0529-AS-SU
ISSUED: June 26, 2007

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR, Chairman
MATTHEW M. CARTER II
KATRINA J. McMURRIAN
NANCY ARGENZIANO
NATHAN A. SKOP

FINAL ORDER APPROVING JOINT MOTION AND SETTLEMENT AGREEMENT

BY THE COMMISSION:

Background

Alafaya Utilities, Inc. (Alafaya or utility) is a Class A utility providing wastewater service to approximately 7,100 wastewater customers and 1,200 reuse customers in Seminole County. The utility is a wholly-owned subsidiary of Utilities, Inc. (UI). Water service is provided in the area by the City of Oviedo. Wastewater rates were last established for this utility in its 2002 rate proceeding.¹

On May 15, 2006, Alafaya filed the Application for Rate Increase at issue in the instant docket. By Order No. PSC-06-0664-FOF-SU, issued August 7, 2006, we approved an interim annual revenue increase of \$539,070 or 18.86%. This interim amount is being secured through a corporate undertaking by UI. By Proposed Agency Action Order No. PSC-07-0130-SC-SU (PAA Order), issued February 15, 2007, we proposed rates that were designed to generate a wastewater revenue requirement of \$3,508,843.

On March 8, 2007, the Office of Public Counsel (OPC) timely filed a protest of the PAA Order. On March 16, 2007, Alafaya timely filed a cross-petition to protest the PAA Order pursuant to Rule 25-22.029(3), Florida Administrative Code (F.A.C.). By letter dated March 14, 2007, Alafaya stated that it intended to put the PAA Order rates in effect during the pendency of the administrative hearing.

By Order No. PSC-07-0381-PCO-SU, issued April 30, 2007, we acknowledged Alafaya's implementation of the PAA rates which are being held subject to refund and secured through a

¹ See Order No. PSC-04-0363-PAA-SU, issued April 5, 2004, in Docket No. 020408-SU, In re: Application for rate increase in Seminole County by Alafaya Utilities, Inc.

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corporate undertaking by UI (Alafaya's parent company). On May 4, 2007, Alafaya and OPC (collectively, "Parties") filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Joint Motion). That Joint Motion and Settlement Agreement are incorporated into this Order as Attachment A.

This Order addresses the Parties' Settlement Agreement. We have jurisdiction pursuant to Sections 367.081 and 367.121, Florida Statutes.

Joint Motion and Settlement Agreement

In the Settlement Agreement, the Parties have agreed that the PAA Order should be amended to eliminate the language relating to the determination of the used and usefulness of Alafaya's wastewater treatment plant, in order for the PAA Order to have no precedential value as to determining the used and usefulness of the wastewater treatment plant. We have previously approved a proposed settlement where the language regarding a used and useful calculation was stricken from a proposed agency action order.² Pursuant to the Settlement Agreement, and because each rate case is decided on its own merits, we find that the language of the PAA Order which the Parties seek to strike can and shall be stricken.

The Parties also stipulated to a reduction in Alafaya's revenue requirement in the amount of \$15,000. The Settlement Agreement states that any refund caused by the utility's implementation of PAA rates shall be accounted for on the books of Alafaya as contributions-in-aid-of-construction (CIAC). Further, the Parties agree that the stipulated revenue requirement shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue in any subsequent proceeding.

We find that the Parties' Settlement Agreement is a reasonable resolution because it addresses all protested issues. Further, we find it is in the public interest for this Commission to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time and expense of a hearing. In keeping with our long-standing practice of encouraging parties to settle contested proceedings whenever possible,³ we hereby approve the Parties' Joint Motion and Settlement Agreement. The final rates produced by the Settlement Agreement are shown in Attachment B. Attachment B also shows the four-year rate reduction to the settlement rates.

The utility shall file a proposed customer notice by June 20, 2007, which is consistent with our decision. The approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after our staff has verified that the proposed customer notice is adequate and the notice has been provided to the

² Order No. PSC-06-0665-S-WS, issued August 7, 2006, in Docket No. 050281-WS, In re: Application for increase in water and wastewater rates in Volusia County by Plantation Bay Utility Company.

³ Order No. PSC-06-0092-AS-WU, issued February 9, 2006, in Docket No. 000694-WU, In re: Petition by Water Management Services, Inc. for limited proceeding to increase water rates in Franklin County.; Order No. PSC-05-0956-PAA-SU, issued October 7, 2005, in Docket No. 050540-SU, In re: Settlement offer for possible overearnings in Marion County by BFF Corp.; and Order No. PSC-00-0374-S-EI, issued February 22, 2000, in Docket No. 990037-EI, In re: Petition of Tampa Electric Company to close Rate Schedules IS-3 and IST-3, and approve new Rate Schedules GSLM-2 and GSLM-3.

customers. The utility shall provide proof that the customers have received notice within 10 days after the date of the notice.

As stated above, we acknowledged Alafaya's implementation of the PAA rates which became effective April 12, 2007. The \$15,000 stipulated revenue reduction represents 0.427% of the PAA Order revenue requirement of \$3,508,843. Pursuant to the Settlement Agreement, the refund amount to be credited to CIAC shall be 0.427% of revenues collected from April 12, 2007, through the day before the settlement rates become effective. The refund amount shall include interest in accordance with Rule 25-30.360(4), F.A.C.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the Parties' Joint Motion and Settlement Agreement are approved. It is further

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

ORDERED that the schedules and attachments to this Order are incorporated herein by reference. It is further

ORDERED that Alafaya Utilities, Inc. shall charge the final rates as shown in Attachment B. It is further

ORDERED that Alafaya Utilities, Inc. shall reduce rates after four years as shown on Attachment B. It is further

ORDERED that the utility shall file a proposed customer notice by June 20, 2007, which is consistent with our decision. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date of the tariff pursuant to Rule 25-30.475(1), F.A.C., after our staff has verified that the proposed customer notice is adequate and the notice has been provided to the customers. It is further

ORDERED that Alafaya Utilities, Inc. shall provide proof that the customers have received notice within 10 days after the date of the notice. It is further

ORDERED that pursuant to the Settlement Agreement, the refund amount to be credited to CIAC shall be 0.427% of revenues collected from April 12, 2007, through the day before the settlement rates become effective. It is further

ORDERED that the refund amount shall include interest in accordance with Rule 25-30.360(4), F.A.C. It is further

ORDERED that the corporate undertaking amounts approved by this Commission for interim and PAA rates⁴ shall be released. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission this 26th day of June, 2007.



ANN COLE
Commission Clerk

(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.

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 Office of Commission Clerk, 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 Office of Commission Clerk, 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.

⁴ Orders Nos. PSC-06-0664-FOF-SU, pp. 4-5. and PSC-07-0381-PCO-SU, p. 3.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of ALAFAYA
UTILITIES, INC., for an increase
in wastewater rates in Seminole County

Docket No. 060256-SU

ORIGINAL

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JOINT MOTION REQUESTING COMMISSION APPROVAL OF
SETTLEMENT AGREEMENT

ALAFAYA UTILITIES, INC. ("Alafaya" or "Utility"), and the OFFICE OF PUBLIC
COUNSEL ("OPC") file this Joint Motion requesting the Florida Public Service Commission
("Commission") to approve the attached Settlement Agreement. In support of this Joint
Motion, Alafaya and OPC state:

1. Alafaya and OPC have entered into a Settlement Agreement resolving OPC's
Petition on Proposed Agency Action Order No. PSC-07-0130-SC-SU, in accordance with the
terms of the Settlement Agreement. A copy of the Settlement Agreement is attached hereto
as Exhibit "A".

2. Alafaya and OPC have entered into the Settlement Agreement to avoid the
the time, expense and uncertainty associated with adversarial litigation, in keeping with the
Commission's long-standing policy and practice of encouraging parties in protested

CMP _____
COM _____ proceedings to settle issues whenever possible. For these reasons, Alafaya and OPC request
CTR _____ the Commission to expeditiously issue a Final Order approving the Settlement Agreement
ECR _____ without modification and close Docket No. 060256-SU.

GCL _____
OPC _____ 3. Pending Commission consideration of the Settlement Agreement, Alafaya and
RCA _____ OPC request the Commission to suspend discovery and all events currently scheduled in the

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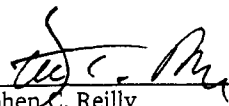
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CASR for this Docket until such time as the Commission acts on this Motion.

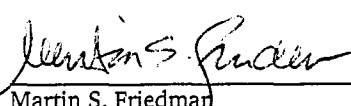
WHEREFORE, ALAFAYA UTILITIES, INC., and OFFICE OF PUBLIC COUNSEL respectfully request the Commission to approve without modification the attached Settlement Agreement and to suspend discovery and other events scheduled in this proceeding until a Final Order is issued closing this docket.

Respectfully submitted this 4th day of May, 2007.



Stephen C. Reilly
Associate Public Counsel
Office of Public Counsel
c/o The Florida Legislature
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PHONE: (850) 488-9330

Attorney for Citizens of the State of Florida



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Attorney for Alafaya Utilities, Inc.

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Application of ALAFAYA
UTILITIES, INC., for an increase
in wastewater rates in Seminole County

Docket No. 060256-SU

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SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into this 4th day of May, 2007,
by and between Alafaya Utilities, Inc. ("Alafaya" or "Utility"), and the Office of Public Counsel on
behalf of the customers of Alafaya ("Citizens").

WITNESSETH

WHEREAS, the Florida Public Service Commission ("Commission") issued Proposed
Agency Action Order No. PSC-07-0130-SC-SU in this docket on February 15, 2007, ("PAA
Order"); and

WHEREAS, on March 8, 2007, the Citizens filed a timely protest to the PAA Order; and

WHEREAS, on March 16, 2007, Alafaya timely filed a Cross-Petition; and

WHEREAS, in order to avoid the time, expense and uncertainty associated with adversarial

 litigation, and in keeping with the Commission's long-standing policy and practice of encouraging
CMP
COM parties in protested proceedings to settle issues whenever possible, the Citizens and Alafaya hereby
CTR enter into this Agreement to settle this case in accordance with the terms and conditions contained
ECR
GCL 2 herein.

- OPC
- RCA
- SCR
- SGA
- SEC
- OTH

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the

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Citizens and Alafaya agree as follows:

1. The PAA Order shall be amended to eliminate the language relating to the determination of the used and usefulness of Alafaya's wastewater treatment plant. It is the intent of Alafaya and the Citizens that the PAA shall have no precedential value as to determining the used and usefulness of the wastewater treatment plant.

2. Alafaya and Citizens stipulate to a reduction in Alafaya's revenue requirement in the amount of Fifteen Thousand Dollars (\$15,000.00). Any refund required because of Alafaya's implementation of PAA rates shall be accounted for on the books of Alafaya as contributions-in-aid-of-construction (CIAC). Further, approval by Alafaya and the Citizens of the above stipulated revenue requirements shall in no way limit or estop either party from espousing whatever positions either deems appropriate for each and every issue that might be in controversy in any subsequent proceeding.

3. The submission of this Settlement Agreement by the Parties is in the nature of an offer to settle. Consequently, if this Settlement Agreement is not accepted and approved without modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

4. Alafaya and the Citizens expressly agree that all activity relating to this docket should be suspended until the Commission disposes of the Joint Motion Requesting Commission Approval of Settlement Agreement.

5. This Settlement Agreement will become effective on the date the Commission enters a final order approving the agreement in total. Upon the Commission issuing a final order approving

this Settlement Agreement, the Citizens Petition on Proposed Agency Action and Alafaya's Cross-Petition shall be deemed resolved, in accordance with the terms of this Settlement Agreement.

6. The Parties have evidenced their acceptance and agreement with the provisions of this Settlement Agreement by their signatures, and personally represent that they have authority to execute this Settlement Agreement on behalf of their respective Parties.

OFFICE OF PUBLIC COUNSEL

By: 

Stephen C. Reilly
Associate Public Counsel
On behalf of the Customers
of Alafaya Utilities, Inc

ALAFAYA UTILITIES, INC.

By: 

Martin S. Friedman
Attorney for Alafaya Utilities, Inc.

Alafaya Utilities, Inc.		Attachment B	
Docket No. 060256-SU			
	<u>PAA Rates</u>	<u>Settlement Rates</u>	<u>Four-Year Rate Reduction</u>
<u>Residential Service</u>			
Base Facility Charge All Meter Sizes:	\$20.54	\$20.44	\$0.17
Gallage Charge - Per 1,000 gallons (10,000 gallon cap)	\$2.73	\$2.72	\$0.02
<u>General Service</u>			
Base Facility Charge by Meter Size:			
5/8" x 3/4"	\$20.54	\$20.44	\$0.17
1"	\$51.34	\$51.11	\$0.43
1-1/2"	\$102.68	\$102.22	\$0.86
2"	\$164.28	\$163.54	\$1.37
3"	\$328.56	\$327.09	\$2.74
4"	\$513.38	\$511.08	\$4.29
Gallage Charge, per 1,000 Gallons	\$3.28	\$3.26	\$0.03
<u>Reuse Irrigation Service</u>			
Residential Flat Rate	\$8.24	\$8.24	N/A
Residential Availability Fee	\$0.00	\$0.00	N/A
Residential Base Charge	\$3.65	\$3.65	N/A
Residential Gallage Charge	\$0.39	\$0.39	N/A
General Service Gallage Charge	\$0.60	\$0.60	N/A
<u>Typical Residential Bills 5/8" x 3/4" Meter</u>			
3,000 Gallons	\$29.02	\$28.60	
5,000 Gallons	\$34.54	\$34.04	
10,000 Gallons	\$48.34	\$47.64	
(Wastewater Gallage Cap - 10,000 Gallons)			