

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in Pasco County by Orangewood Lakes Services, Inc. | DOCKET NO. 070680-WS  
ORDER NO. PSC-08-0063-PCO-WS  
ISSUED: January 28, 2008

The following Commissioners participated in the disposition of this matter:

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

ORDER APPROVING INTERIM RATES

BY THE COMMISSION:

BACKGROUND

Orangewood Lakes Services, Inc. (Orangewood or company) is a Class C utility serving 223 water and 190 wastewater customers in Pasco County. According to the company's 2006 Annual Report, total gross revenue was \$63,451 and \$46,218 for water and wastewater, respectively. The company's operating expenses were \$58,183 for water and \$90,609 for wastewater.

The company was granted water and wastewater Certificate Nos. 315-W and 260-S, respectively, in 1978.<sup>1</sup> This company has never had a rate proceeding before this Commission. On November 9, 2007, in the instant docket, the company filed a request for staff-assisted rate case (SARC). The company also requested emergency wastewater rates. By letter dated December 7, 2007, the company withdrew its request for emergency wastewater rates and requested interim wastewater rates.

This Order addresses the company's request for interim wastewater rates. We have the authority to consider this rate case and interim rates under Section 367.0814, Florida Statutes.

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<sup>1</sup> See Order No. 8703, issued June 20, 1978, in Docket No. 780457-W, In Re: Application of Orangewood Lakes Services, Inc. for a certificate to operate a water system in Pasco County, Florida and Order No. 8683, issued August 21, 1978, in Docket No. 780660-S, In Re: Application of Orangewood Lakes Services, Inc. for a certificate to operate a sewer utility in Pasco County, Florida, Section 367.041, Florida Statutes.

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### INTERIM RATES

As stated previously, on November 9, 2007, we received an application for a staff-assisted rate case from Orangewood. The company requested interim wastewater rates. The company did not request any interim rate relief for its water system. Section 367.0814(4), Florida Statutes, provides that:

[t]o establish interim relief, there must be a demonstration that the operation and maintenance expenses exceed the revenues of the regulated utility, and interim rates shall not exceed the level necessary to cover operation and maintenance expenses as defined by the Uniform System of Accounts for Class C Water and Wastewater Utilities (1996) of the National Association of Regulatory Utility Commissioners.

We reviewed the company's operation and maintenance (O & M) expenses in relation to its revenues. Based on the company's 2006 Annual Report and SARC filing, we determined that the company's wastewater operation and maintenance expenses exceed its revenues.

Orangewood recorded \$85,726 for wastewater O & M expenses in its 2006 annual report. We analyzed the O & M expenses reported on the 2006 annual report, compared them to expenses allowed in past cases for like-sized utilities, and found them to be reasonable.<sup>2</sup> Therefore, the company shall be allowed an interim wastewater revenue increase that will cover the cost of its O & M expenses of \$85,726.

In addition, the interim wastewater increase shall be grossed up to include regulatory assessment fees (RAFs). We have previously determined that it would be inappropriate to approve an increase in a utility's rates to cover its operating expenses and deny that same utility the funds to pay RAFs. Furthermore, by approving an interim rate that allows for the payment of RAFs, the company will be able to cover its O & M expenses.<sup>3</sup> The RAFs accrued during the interim period will amount to \$4,039.

Based on the above, Orangewood's interim wastewater rates must be established to produce revenues of \$89,765 (\$85,726 + \$4,039) in order to cover its O & M expenses and RAFs. This is a 63.57% increase above the company's 2006 annualized revenues of \$54,880. It is our practice to apply the interim percentage increase to existing rates. The company currently has a flat rate of \$24.07. By applying the interim rate increase, the interim wastewater flat rate shall be \$39.37.

If the company submits revised tariffs reflecting our decision on interim rates, our staff shall have administrative authority to approve the submitted tariffs. The approved rates shall be effective for service rendered as of the stamped approval date on the tariff sheets pursuant to

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<sup>2</sup> See Order No. PSC-07-0385-SC-WS, issued May 1, 2007, in Docket No. 060575-WS, In re: Application for staff-assisted rate case in Lee County by Useppa Island Utility, Inc. Useppa Island Utility, Inc. had 145 wastewater customers and the Commission approved O & M expenses in the amount of \$108,102.

<sup>3</sup> See Order No. PSC-01-1654-FOF-WS, issued August 13, 2001, in Docket No. 010396-WS, In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.

Rule 25-30.475(1), Florida Administrative Code, provided customers have received notice. The rates shall not be implemented until staff verifies that the tariff sheets are consistent with our decision, the proposed customer notice is adequate, and the required security has been filed. The company shall provide proof of the date notice was given within 10 days after the date the notice is provided to the customers.

APPROPRIATE SECURITY TO GUARANTEE

THE INTERIM RATE INCREASE

In order to protect the customers in the event that the final rates are less than those authorized as a result of the interim increase, the company shall provide security by placing in escrow the difference in revenues between the interim rates and the previously authorized rates, or by providing a bond or letter of credit. We find that the percentage amount of potential refunds associated with the interim revenue increase to be 56.20% of interim rate revenue for wastewater. This amount was calculated pursuant to Section 367.0814(5), Florida Statutes, which specifies that,

The Commission may require that the difference between the interim rates and the previously authorized rates be collected under a bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission.

If the security provided is an escrow account, said account shall be established between the company 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 forth above, that no withdrawals of funds shall occur without the prior approval of the Commission through the Director of the Office of Commission Clerk, 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, and that pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.

The company shall deposit 63.57% of the interim wastewater rate revenue into the escrow account each month, pending the completion of the rate case proceeding. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.

If the security provided is a bond or a letter of credit, said instrument shall be in the amount of \$14,535. If the company chooses a bond as security, the bond shall state that it will be released or shall terminate upon subsequent order of the Commission addressing the requirement of a refund. If the company chooses to provide a letter of credit as security, the letter of credit

shall state that it is irrevocable for the period it is in effect and that it will be in effect until a final Commission order is rendered addressing the requirement of a refund.

Irrespective of the type of security provided, the company shall keep an accurate and detailed account of all monies it receives. Pursuant to Rule 25-30.360(6), Florida Administrative Code, the utility shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund as of the end of the proceeding month. Should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code.

Under no circumstances 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 company.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of Orangewood Lakes Services, Inc. for interim rates is approved as set forth in the body of this Order. It is further

ORDERED that the approved rates shall be effective for service rendered as of the stamped approval date of the tariff sheets pursuant to Rule 25-30.475(1), Florida Administrative Code, provided customers have received notice. It is further

ORDERED that the utility shall provide proof of the date notice was given within ten days after the date of notice. It is further

ORDERED that Orangewood Lakes Services, Inc. shall file as set forth in the body of this Order a bond, letter of credit, or escrow agreement as security to guarantee any potential refunds of revenues collected under interim conditions. It is further

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

ORDERED that should a refund be required, the refund shall be with interest and undertaken in accordance with Rule 25-30.360, Florida Administrative Code. It is further

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

ORDERED that this docket shall remain open pending final resolution of the company's staff-assisted rate case.

By ORDER of the Florida Public Service Commission this 28th day of January, 2008.

ANN COLE  
Commission Clerk

By:   
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Hong Wang  
Office of 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 this order, which is non-final in nature, may request (1) reconsideration within 15 days pursuant to 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 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. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.