

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and  
wastewater rates in Pasco County by Labrador  
Utilities, Inc.

DOCKET NO. 080249-WS  
ORDER NO. PSC-09-0711-AS-WS  
ISSUED: October 26, 2009

The following Commissioners participated in the disposition of this matter:

LISA POLAK EDGAR  
NANCY ARGENZIANO

FINAL ORDER APPROVING SETTLEMENT AGREEMENT AND CLOSING DOCKET

BY THE COMMISSION:

Background

Labrador Utilities, Inc. (Labrador or Utility) is a Class B utility providing water and wastewater service to approximately 897 water and 892 wastewater customers in Pasco County. Water and wastewater rates were last established for this Utility in 2004.

On August 28, 2008, Labrador filed its application for increased water and wastewater rates, and the application was assigned to this docket. By Order No. PSC-08-0751-PCO-WS, issued November 13, 2008, we approved interim annual revenue increases of \$97,862 or 62.83 percent for water, and \$29,611 or 8.17 percent for wastewater. The revenue increases are secured through a corporate undertaking by Utilities, Inc. (UI), Labrador's parent company. By Order No. PSC-09-0462-PAA-WS (PAA Order), issued June 22, 2009, we proposed to approve rates designed to generate a water revenue requirement of \$257,003 and a wastewater revenue requirement of \$497,755.

On July 13, 2009, the Office of Public Counsel (OPC) timely filed a protest of the PAA Order. On July 22, 2009, Labrador timely filed a cross-petition to protest the PAA Order pursuant to Rule 25-22.029(3), Florida Administrative Code (F.A.C.).

On September 3, 2009, the Utility and OPC (collectively, Parties) filed a Joint Motion Requesting Commission Approval of Settlement Agreement (Joint Motion). The Settlement Agreement is incorporated in 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 (F.S.).

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

### Settlement Agreement

In the Settlement Agreement, the Parties note that they have not agreed on certain language in the PAA Order as follows: (1) the quality of service provided by the Utility;<sup>1</sup> (2) the determination of the used and usefulness of Labrador's wastewater treatment plant;<sup>2</sup> (3) the appropriate salaries and benefits expense;<sup>3</sup> and (4) the appropriate amount of rate case expense.<sup>4</sup> The Parties have agreed that the PAA Order is to have no precedential value as to determining the aforementioned items. We have previously approved a proposed settlement where language was stricken from a proposed agency action order.<sup>5</sup> We find that the language in the PAA Order which the Parties seek to strike can be removed because each rate case is decided on its own merits.

In lieu of stipulating to the above-mentioned items, Labrador and OPC have agreed and stipulated to a total revenue requirement and rates and charges to be paid by the customers. The Parties have agreed that the water revenue requirement be reduced by \$3,379 to \$253,624, and the wastewater revenue requirement be reduced by \$37,620 to \$460,135.

The Parties have further stipulated that no refund of the interim rates is required. 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. Finally, Labrador "agrees not to file the minimum filing requirements for any new rate case until at least two years after the execution of the Settlement Agreement, except for price indexes and pass-throughs pursuant to Section 367.081(4), F.S., for the recovery of government-mandated improvements, and those agreed upon between Labrador and the Citizens in the future."

We find that the Parties' Settlement Agreement is a reasonable resolution because it results in mutually acceptable rates. Further, we find that it is in the public interest for us to approve the Settlement Agreement because it promotes administrative efficiency and avoids the time and expense of a hearing.

The Utility shall file a proposed customer notice and revised tariff sheets by October 21, 2009, 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., and after our staff has verified that the proposed customer notice is adequate and the

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<sup>1</sup> OPC believes the odors coming from the wastewater treatment plant continue to be a problem, and the Utility has agreed to work with customer representatives to study the problem and propose cost effective measures to address the problem.

<sup>2</sup> The Parties do not agree on the calculation of the used and usefulness of the wastewater treatment facilities, and the last paragraph of Section IV. B. 2 of the PAA Order shall be stricken and have no precedential value.

<sup>3</sup> The Parties do not agree on the calculation of the appropriate amount for salaries and benefits, and the amount of \$125,288 listed in the PAA Order shall have no precedential value.

<sup>4</sup> The Parties do not agree on the appropriate amount of rate case expense and the amount of rate case expense listed in the PAA Order shall have no precedential value.

<sup>5</sup> See 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.

notice has been provided to the customers. The Utility shall provide proof that the customers have received notice within 10 days after the date of the notice.

In consideration of the above, it is

ORDERED by the Florida Public Service Commission that the Joint Motion Requesting Commission Approval of Settlement Agreement is approved, and the Settlement Agreement in its entirety is approved. It is further

ORDERED that the Settlement Agreement is attached as Attachment A, and is by reference incorporated into this Order. It is further

ORDERED that the appropriate revenue requirements are \$253,624 for water and \$460,135 for wastewater. It is further

ORDERED that the approved rates shall be as shown in the Settlement Agreement. It is further

ORDERED that Labrador Utilities, Inc., shall file a proposed customer notice and revised tariff sheets by October 21, 2009, 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., and 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 Labrador 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 the corporate undertaking by Utilities, Inc., for the interim rates 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 October, 2009.

  
ANN COLE

Commission Clerk

( S E A L )

RRJ

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.

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Application for increase in water  
and wastewater rates in Pasco County  
by Labrador Utilities, Inc.

Docket No. 080249-WS

Filed: September 3, 2009

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT is made and entered into this 3<sup>rd</sup> September, 2009, by and between Labrador Utilities, Inc. (Labrador or Utility), and the Office of Public Counsel on behalf of the customers of Labrador (Citizens).

**WITNESSETH**

WHEREAS, the Florida Public Service Commission (Commission) issued Proposed Agency Action Order No. PSC-09-0462-PAA-WS in this docket on June 22, 2009 (PAA Order); and

WHEREAS, on July 13, 2009, the Citizens filed a timely protest to the PAA Order; and

WHEREAS, on July 22, 2009, Labrador 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 parties in protested proceedings to settle issues whenever possible, the Citizens and Labrador hereby enter into this Agreement to settle this case in accordance with the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the mutual covenants set forth below, the Citizens and Labrador agree as follows:

1. In regards to Quality of Service, the PAA Order shall be amended to note that the Citizens believe the odors coming from the wastewater treatment plant continue to be a problem, particularly when the plant is underutilized during the time the park is less occupied. The Utility

Exhibit "A"

has agreed to work with customer representatives to study the problem, and if necessary, propose cost effective measures to address the wastewater plant odor problem.

2. In regards to Rate Base, the Utility and the Citizens agree that the PAA Order should be amended to note that Labrador and the Citizens do not agree on the determination of the used and usefulness of the Utility's wastewater treatment facilities. It is the intent of Labrador and the Citizens that the PAA shall have no precedential value as to determining the used and usefulness of the wastewater treatment plant. Consequently, the last paragraph of Section IV. B.2. shall be stricken. In lieu of stipulating to any used and useful percentage, the Utility and the Citizens have agreed and stipulated to a total revenue requirement and rates and charges to be paid by the customers.

3. In regards to salaries and benefits, the Citizens do not believe that the total of \$125,288 for salaries and benefits is appropriate. It is the intent of Labrador and the Citizens that the PAA Order shall have no precedential value as to determining the appropriate amount of salaries and benefits. In lieu of stipulating to an appropriate amount of total salaries and benefits, Labrador and the Citizens have agreed and stipulated to a total revenue requirement and rates and charges to be paid by the customers.

4. In regards to rate case expense, the Utility and the Citizens do not agree on the appropriate amount of rate case expense. It is the intent of Labrador and the Citizens that the PAA Order shall have no precedential value as to determining the appropriate amount of rate case expense. In lieu of stipulating to an appropriate amount of total rate case expense, Labrador and the Citizens have agreed and stipulated to a total revenue requirement and rates and charges to be paid by the customers.

5. The Utility and the Citizens have agreed that the appropriate revenue requirements are \$253,624 for water and \$460,135 for wastewater.

6. Labrador and the Citizens agree that based on these reduced revenue requirements the base facility charges from the PAA Order should not be changed and only the gallonage charge for water and wastewater should be adjusted to yield the agreed upon revenue requirement.

7. The Utility and the Citizens agree that the appropriate rates are as follows:

Labrador Utilities, Inc.		Docket No. 080249-WS			
Water Monthly Service Rates					
Test Year Ended 12/31/08					
	Commission Approved Interim	Utility Requested Final	PAA Order Rates	Settlement Rates	4-Year Rate Reduction
<b><u>Residential Service</u></b>					
All Meter Sizes	\$10 69	\$12 75	\$8 87	\$8 87	\$0 32
Gallage Charge, per 1,000 Gallons	\$5 34	\$6 36	\$6 74	\$6 57	\$0 24
<b><u>General Service</u></b>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$10 69	\$12 75	\$8 87	\$8 87	\$0 32
3/4"	\$16 03	\$19 11	\$13 31	\$13 31	\$0 48
1"	\$26 72	\$31 86	\$22 18	\$22 18	\$0 81
1-1/2"	\$53 46	\$63 75	\$44 35	\$44 35	\$1 61
2"	\$85 52	\$101 99	\$70 96	\$70 96	\$2 58
3"	\$171 04	\$203 98	\$141 92	\$141 92	\$5 16
4"	\$267 24	\$318 71	\$221 75	\$221 75	\$8 06
6"	\$534 48	\$637 42	\$443 50	\$443 50	\$16 12
Gallage Charge, per 1,000 Gallons	\$5 34	\$6 36	\$6 74	\$6 57	\$0 24
<b><u>Irrigation</u></b>					
Base Facility Charge by Meter Size:					
2"	\$85 52	\$101 99	\$70 96	\$70 96	\$2 58
Gallage Charge, per 1,000 Gallons	\$5 34	\$6 36	\$6 74	\$6 57	\$0 24
<b><u>Typical Residential Bills</u></b>					
3,000 Gallons	\$26 71	\$31 83	\$29 09	\$28 58	
5,000 Gallons	\$37 39	\$44 55	\$42 57	\$41 72	
10,000 Gallons	\$64 09	\$76 35	\$76 27	\$74 57	

Labrador Utilities, Inc. Wastewater Monthly Service Rates Test Year Ended 12/31/07		Docket No. 080249-WS			
	Commission Approved Interim	Utility Requested Final	PAA Order Rates	Settlement Rates	4-Year Rate Reduction
<b>Residential</b>					
Base Facility Charge All Meter Sizes:	\$13 59	\$18 85	\$21 91	\$21 91	\$0 43
Gallonge Charge - Per 1,000 gallons (6,000 gallon cap)	\$10 51	\$14 57	\$11 55	\$9 77	\$0 19
<b>General Service</b>					
Base Facility Charge by Meter Size:					
5/8" x 3/4"	\$13 59	\$18 85	\$21 91	\$21 91	\$0 43
3/4"	\$20 38	\$28 28	\$32 87	\$32 87	\$0 64
1"	\$33 97	\$47 14	\$54 78	\$54 78	\$1 07
1-1/2"	\$67 96	\$94 29	\$109 55	\$109 55	\$2 15
2"	\$108 72	\$150 86	\$175 28	\$175 28	\$3 44
3"	\$217 44	\$301 73	\$350 56	\$350 56	\$6 87
4"	\$339 76	\$471 45	\$547 75	\$547 75	\$10 74
6"	\$679 51	\$942 90	\$1,095 50	\$1,095 50	\$21 48
Gallonge Charge, per 1,000 Gallons	\$12 59	\$17 47	\$13 86	\$11 72	\$0 23
<b>Typical Residential Bills</b>					
3,000 Gallons	\$45 12	\$62 56	\$56 56	\$51 22	
5,000 Gallons	\$66 14	\$91 70	\$79 66	\$70 76	
6,000 Gallons (Wastewater Gallonge Cap - 6,000 Gallons)	\$76 65	\$106 27	\$91 21	\$80 53	

8. Further, Labrador and the Citizens agree that there is no requirement for a refund of interim rates.

9. The Utility agrees not to file the minimum filing requirements for any new rate case until at least two years after the execution of the Settlement Agreement, except for price indexes and pass-throughs pursuant to Section 367.081(4), Florida Statutes, for the recovery of government-mandated improvements, and those agreed upon between Labrador and the Citizens in the future.

10. 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



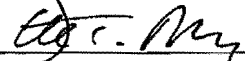
modification by Commission Order, then this Settlement Agreement is rejected and shall be considered null and void and neither Party may use the attempted agreement in this or any other proceeding.

11. Labrador 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.

12. 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 Labrador's Cross-Petition shall be deemed resolved, in accordance with the terms of this Settlement Agreement.

13. 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 Labrador Utilities, Inc.

**LABRADOR UTILITIES, INC.**

By: \_\_\_\_\_

Martin S. Friedman  
Attorney for Labrador Utilities, Inc.

**Concurring with the Settlement Agreement**

\_\_\_\_\_  
Ralph Bechtold  
President  
Forest Lake Estates Nonshareholders Association, Inc.

\_\_\_\_\_  
Beverley Culliford  
President  
Forest Lake Estates Coop, Inc.

\_\_\_\_\_  
Eva Rush  
Chairman of the Utility Committee  
Forest Lake Estates Nonshareholders Association, Inc.

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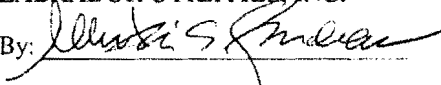
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Of Labrador Utilities, Inc.

**LABRADOR UTILITIES, INC.**

By:  \_\_\_\_\_

Martin S. Friedman  
Attorney for Labrador Utilities, Inc.

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