

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in
Lake County by TLP Water, Inc.

DOCKET NO. 090244-WU
ORDER NO. PSC-10-0124-PAA-WU
ISSUED: March 1, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
DAVID E. KLEMENT
BEN A. "STEVE" STEVENS III

NOTICE OF PROPOSED AGENCY ACTION
ORDER APPROVING INCREASE IN WATER RATES

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that, except for the statutory four-year rate reduction and temporary rates in the event of protest, 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 (F.A.C.).

BACKGROUND

TLP Water, Inc. (TLP or Utility) is a Class C utility serving 53 water customers in Lake County. The Utility is located in the St. Johns River Water Management District (SJRWMD) area where water use restrictions apply. Wastewater treatment is provided by septic tanks. According to TLP's 2008 Annual Report, total gross revenue was \$22,520. The Utility's operating expenses were \$38,838.

Three Lakes Mobile Home Park is a privately owned property formerly known as Carl's Camp. In 1945, Carl's Camp installed a small 4-inch well to provide water service to the area. A 1948 agreement required Carl's Camp to supply water to the residents on Lakeside Lane and Canal Street, which are located outside of the park. The camp became known as the Three Lakes Mobile Home Park in the 1960s. We received jurisdiction over Lake County in 1972.¹ In 1992, Three Lakes Mobile Home Park was incorporated as a non-profit cooperative. The mobile home park believed it was exempt from our jurisdiction, pursuant to Section 367.022, Florida Statutes

¹ See Order No. 5472, issued June 30, 1972, in Docket No. 5818-WS, In re: Jurisdictional Resolutions from Boards of County Commissioners adopting the Water and Sewer System Regulatory Law, Chapter 71-278, Laws of Florida, (Chapter 367, Florida Statutes). Resolution Adopted by Lake County.

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FPSC-COMMISSION OFFICE

(F.S.); however, the Utility continued to serve customers outside the cooperative, which in fact rendered it subject to our jurisdiction. Recently, we granted Water Certificate No. 644-W to TLP, and established a flat rate for service of \$39.²

By Order No. PSC-09-0605-PCO-WU, issued September 8, 2009 in this docket, we approved a 80.57 percent interim rate increase, subject to refund with interest, for TLP. However, the Utility did not implement the interim rates due to problems with obtaining security.

This order addresses TLP's request for a staff-assisted rate case. We have the authority to consider this rate case pursuant to Section 367.0814, F.S.

QUALITY OF SERVICE

Pursuant to Rule 25-30.433(1), F.A.C., we shall make a determination of the overall quality of service provided by a utility by evaluating the quality of the utility's product, the operational conditions of the utility's plant and facilities, and the utility's attempt to address customer satisfaction. The utility's compliance with the DEP regulations and customer comments or complaints received by the Commission are also reviewed. Our staff conducted a field inspection of the Utility's facilities on July 9, 2009. A customer meeting was held on December 9, 2009 in the City of Tavares (City of Tavares).

There are some pending violations with the distribution system as pointed out to the Utility by DEP. Correction of these violations is hinged on funding that is anticipated from a loan/grant application with the United States Department of Agriculture (USDA). Preliminary steps have been taken with the USDA to determine the Utility's eligibility for a loan/grant and the final application documents are expected to be filed in February. A decision on the loan is expected late 2010.

Quality of the Product

Lake County water systems are under the purview of DEP's Central District. The District has worked closely with TLP over the last two years while the Utility upgraded its water plant and system. Water quality provided by the Utility meets standards set forth by the DEP and chemical analyses are current. In reviewing the data available, it appears that the quality of the product is satisfactory.

Operational Conditions at the Plant

Improvements made recently by the Utility include a two-inch water line replacement, a new hydropneumatic tank and pressure controls, a new well pump, a new protective structure over the well and pressure tank, and a fence around the plant site. The Utility has a contract operator who prepares and submits monthly operating reports, draws water samples, and monitors the operation of the water system.

² See Order No. PSC-09-0542-PAA-WU, issued August 4, 2009, in Docket No. 080499-WU, In re: Application for certificate to operate water utility in Lake County by TLP Water, Inc.

The last Sanitary Survey, conducted by the DEP on March 14, 2008, listed a number of deficiencies. Two items remain incomplete. The Utility is required to pressure test the new section of two-inch water main that replaced a former two-inch main that was leaking. A second deficiency requires replacement of a water line that crosses a canal with a new water line that meets current design standards. However, the funds needed to accomplish that improvement are not available. A hearing was scheduled with the DEP for December 16, 2009, in Lake County to address the outstanding deficiencies, but that hearing was postponed pending the issuance of a consent order. It is anticipated that DEP and the Utility will reach agreement and DEP will prepare a consent order containing time frames to correct outstanding deficiencies.

A representative from the Florida Rural Water Association is preparing some preliminary documents and drawings to assist in applying for the funds to make the improvements required by DEP. Installation of water meters to each customer is planned and will be accomplished after a loan/grant from the USDA is approved, as metering is required by the USDA and the City. In addition, the Utility is interested in obtaining wholesale water and wastewater service from the City and has met with City officials.

We believe that the Utility is making a significant effort to provide quality service to its customers; however, due to the outstanding deficiencies noted, we find that the Utility's operational conditions are marginal.

Customer Satisfaction

We initially became aware of the existence of the Utility in 2008 through customer complaints concerning rates charged by TLP. The Utility had discussed disconnection of service to customers who were not making timely payments which triggered the customer complaints to this Commission. We have investigated and resolved the complaints.

The Utility tracks complaints received by customers and there are no unresolved complaints pending. Although our CATS system also has no complaints on file, several customers have provided written comments regarding service in this docket. The service area is small and the Utility President living in the service area knows every customer.

Written comments submitted to this Commission during this rate case included concerns regarding water quality, the distribution system improvements, the granting of a certificate to a utility that has violations with the DEP, discussions with the City for utility services, and the amount of projected costs for TLP to bring its system into compliance. One customer asked about expenses contained in the staff Audit Report and the Staff Report. Another customer wrote about concerns with unrecorded Contributions in Aid of Construction (CIAC) of \$2,582, that drawings showing water line locations are not accurate, that property owners have contacted Lake County and DEP representatives about concerns over the water line crossing the canal, and that numerous complaints have been sent to the Lake County Health Department and the DEP for many years.

Nine customers spoke at the customer meeting on December 9, 2009. The customers stated that they want safe water that meets all DEP standards, openness of communication, and rate stability. Customers expressed concerns regarding the operational costs listed in our staff's preliminary report, the status and impact of a loan/grant application pending before the USDA, and the possibility of procuring water and wastewater service from the City. There was one request for copies of water test results.

We have reviewed the operational costs that were questioned, contacted the Utility to obtain the most current test results related to water quality, and provided copies to the customer who requested this data. There is still more money to be spent by TLP in finishing the upgrades to the distribution system. The time frame for those items will depend upon the loan/grant application pending before the USDA and whether it is approved. There have been discussions with the City about purchasing wholesale water and wastewater from the City, but until the USDA application is acted upon, wholesale service purchased by TLP Water is not affordable. If the customers outside Three Lakes Park would prefer to discuss water and wastewater service from the City individually or as a group, they are within their rights to do so.

The customer base includes a mobile home park cooperative and some single family homes outside the park. As displayed at the customer meeting, it appears that most of the complaints are from those customers outside the mobile home park. We believe that the Utility is working toward the resolution of concerns about bringing the distribution system into compliance as soon as funds are available.

Decision

We find that the Utility's overall quality of service is marginal. Water quality provided by the Utility is meeting DEP standards and shall be considered satisfactory. Operational conditions shall be considered marginal due to the outstanding DEP violations. The Utility's attempt to address customer satisfaction is satisfactory, although improved communication to the customers outside the park would be beneficial.

USED AND USEFUL

The TLP water system has only one well. The distribution system for TLP is installed to serve the current customers which include 28 mobile homes in the Three Lakes Park Co-op, a clubhouse, and 21 homes outside the park. There is no room for expansion and the service area is built out. Pursuant to Rule 25-30.4325(4), F.A.C., water plants with a single well are deemed 100 percent used and useful. We find that the water plant and distribution system are 100 percent used and useful.

RATE BASE

The appropriate components of the Utility's rate base include utility plant in service (UPIS), accumulated depreciation, and working capital.

We selected a test year ended June 30, 2009, for this rate case. Rate base for this Utility has never been established. Sufficient records of the original construction were not available and are considered lost. Absent these records, our auditor requested that an original cost study be performed by the our engineer. The engineer did not complete an original cost study; because of the age of system, the engineer determined that all original rate base components are fully depreciated. Adjustments have been made to match plant additions contained in the audit through June 30, 2009. A summary of each component and the adjustments follows:

Utility Plant in Service (UPIS): The Utility recorded \$0 of UPIS for the test year ended June 30, 2009, for water. We have made an adjustment to increase UPIS by \$70,373 to reflect plant additions contained in the audit. Also, we have decreased UPIS by \$35 to reflect an averaging adjustment. We find that the UPIS balance is \$70,338.

Non-used and Useful Plant: As discussed above, the Utility's water treatment plant and water distribution system shall be considered 100 percent used and useful.

Accumulated Depreciation: TLP recorded a balance for accumulated depreciation of \$0 for the test year. We have calculated accumulated depreciation using the prescribed rates in Rule 25-30.140, F.A.C., and determined that accumulated depreciation shall be \$6,473. Also, we decreased this account by \$1,213 to reflect an averaging adjustment. These adjustments result in accumulated depreciation of \$5,260.

Working Capital Allowance: Working capital is defined as the investor-supplied funds necessary to meet operating expenses or going-concern requirements of the utility. Consistent with Rule 25-30.433(2), F.A.C., we used the one-eighth of the operation and maintenance (O&M) expense formula approach for calculating the working capital allowance. Applying this formula, we find that a working capital allowance of \$2,822 (based on O&M of \$22,573) is appropriate. Working capital has been increased by \$2,822 to reflect one-eighth of the O&M expenses.

Rate Base Summary: Based on the forgoing, we find that the appropriate test year average rate base is \$67,899. Rate base is shown on Schedule 1-A, and our adjustments are shown on Schedule 1-B.

RATE OF RETURN

The Utility recorded long term debt of \$136,866 with a cost rate of 12 percent. TLP's long term debt is a related party loan. The loan to the Utility was primarily for necessary upgrades needed in order to be in compliance with DEP. We evaluated the cost rate of this related party loan. We find that the rate is appropriate due to the financial posture of the Utility and its inability to obtain other funding sources. The appropriate ROE is 11.30 percent using the

most recent Commission-approved leverage formula.³ The Utility's capital structure has been reconciled with rate base. We find that an ROE of 11.30 percent with a range of 10.30 percent to 12.30 percent resulting in an overall rate of return of 12.00 percent is appropriate. The ROE and overall rate of return are shown on Schedule 2.

TEST YEAR REVENUES

TLP recorded total revenues of \$14,776 for the 12-month period ended June 30, 2009. Pursuant to Audit Finding No. 4, the Utility has 53 customers that are billed a flat rate of \$39 per month. This results in revenues of \$24,804 (53x\$39x12). Therefore, we have increased test year revenues by \$10,028 (\$24,804-\$14,776). Test year revenues are shown on Schedule 3-A. The related adjustment is shown on Schedule 3-B.

OPERATING EXPENSES

The Utility recorded operating expenses of \$32,094 during the test year ending June 30, 2009. The test year O&M expenses have been reviewed, and invoices, canceled checks, and other supporting documentation have been examined. We made several adjustments to TLP's operating expenses as summarized below:

Material and Supplies – (620) – The Utility recorded \$3,412 in this account during the test year. We have decreased material and supplies by \$492 to remove out-of-period expenses. We approve material and supplies expense for the test year of \$2,920.

Contractual Services – Professional – (631) – TLP recorded \$14,263 in this account during the test year. The account consisted of legal fees paid by the Utility in obtaining its certificate from this Commission. It also includes legal fees paid as a result of a pending litigation issue with the DEP. We have amortized the legal fees over five years that TLP incurred to obtain its certificate. As result, we reduced this account by \$1,593 [\$1,991-(\$1,991/5)]. We have removed the legal fees of \$6,870 related to the pending DEP issue. Based on the above adjustments, we approve contractual services – professional expense of \$5,800.

Contractual Services – Other – (636) – The Utility recorded \$6,445 in this account during the test year. We have decreased this account by \$553 to remove out of period expenses. We approve contractual services other expense for the test year of \$5,892.

Regulatory Commission Expense – (665) – TLP recorded \$0 in this account during the test year. Pursuant to Section 367.0816, F.S., rate case expense is amortized over a four-year period. The Utility paid a \$500 rate case filing fee. TLP is required by Rule 25-22.0407(9)(b), F.A.C., to mail notices of the customer meeting to its customers. We have estimated noticing expense for water of \$47 postage expense, \$49 printing expense, and \$5 for envelopes. The above results in

³ See Order No. PSC-09-0430-PAA-WS, issued June 19, 2009, in Docket No. 090006-WS, In Re: Water and Wastewater Industry Annual Reestablishment of Authorized Range of Return on Common Equity for Water and Wastewater Utilities Pursuant to Section 367.081(4)(f), Florida Statutes.

a total rate case expense for the filing fee and noticing of \$601, resulting in a four-year amortization of \$150. We approve regulatory commission expense for the test year of \$150.

Miscellaneous Expense – (675) – The Utility recorded \$1,502 in this account for the test year. We have increased this account by \$150 (\$750/5) to amortize the application fee for the certification over five years. This account has been reduced by \$29 to remove out-of-period expenses. We have increased this account by \$180 to include the annual expense for a post office box. We have decreased this account by \$394 to remove an unsupported expense. Also, we have decreased this account by \$70 to remove noticing expense included in rate case expense. The net adjustment to this account is a decrease of \$163. We approve miscellaneous expense for the test year of \$1,339 (\$1,502-\$163).

Operation and Maintenance Expense (O&M Summary) – Based on the above adjustments, O&M shall be decreased by \$9,521. O&M expenses of \$22,573 are shown on Schedule 3-C.

Depreciation Expense (Net of Amortization of CIAC) – The Utility recorded depreciation expense of \$0 during the test year. We calculated test year depreciation expense using the rates prescribed in Rule 25-30.140, F.A.C., and determined depreciation expense to be \$2,426. TLP has no amortization of CIAC. Therefore, we approve net depreciation expense of \$2,426.

Taxes Other Than Income (TOTI) – The Utility recorded taxes other than income of \$0. Based on calculated test year revenue, TLP's regulatory assessment fees (RAFs) should be \$1,116 and we have increased this account accordingly.

Income Tax – The Utility is an 1120C Corporation but did not record income tax for the test year. Based on its current income tax return, TLP has a large amount of net loss carry forwards. These net loss carry forwards are sufficient enough to offset any income tax liability for the next couple of years. Therefore, we have not made any adjustments to this account.

Taxes Other Than Income – As discussed above, revenues have been increased by \$9,904 to reflect the change in revenue required to cover expenses and allow the recommended return on investment. As a result, the operating expense shall be increased by \$446 to reflect regulatory assessment fees of 4.5 percent on the change in revenues.

Operating Expenses Summary – The application of our adjustments to the audited test year operating expenses results in calculated operating expenses of \$26,561. Operating expenses are shown on Schedule 3-A. The related adjustments are shown on Schedule 3-B.

REVENUE REQUIREMENT

The Utility shall be allowed an annual increase of \$9,904 (39.93 percent). This will allow TLP the opportunity to recover its expenses and earn a 12.00 percent return on its investment. The calculation is as follows:

	<u>Water</u>
Adjusted Rate Base	\$67,899
Rate of Return	x .1200
Return on Rate Base	\$ 8,148
Adjusted O & M expense	22,573
Depreciation expense (Net)	2,426
Amortization	0
Taxes Other Than Income	1,562
Income Taxes	0
Revenue Requirement	\$34,708
Less Test Year Revenues	24,804
Annual Increase	\$9,904
Percent Increase/(Decrease)	39.93%

The approved revenue requirement is shown on Schedule 3-A.

RATE STRUCTURE

TLP provides water service to 53 unmetered customers which includes one general service customer. Wastewater treatment is provided by septic tanks. The service area is over 60 years old and the Utility serves a mobile home park. Also, TLP serves residents on Lakeside Lane and Canal Street, which are located outside the mobile home park. A 1948 agreement required the Utility to supply water to the residents on Lakeside Lane and Canal Street.

As indicated in the Utility's current tariff, the rate structure consists of a flat rate charge of \$39.00. In 2008, this rate was negotiated between TLP and its customers on Lakeside Lane and Canal Street. The current rate structure became effective when the Utility was granted its water and wastewater certificates.⁴

TLP is located in the SJRWMD. However, the Utility falls below the permitting threshold and is therefore considered non-jurisdictional by the SJRWMD.

Rule 25-30.255(1), F.A.C., requires that each utility measure water sold on the basis of metered volume sales unless we approve a flat rate service arrangement. We sought to convert

⁴ See Order No. PSC-09-0542-PAA-WU, issued August 4, 2009, in Docket No. 080499-WU, In re: Application for certificate to operate water utility in Lake County by TLP Water, Inc.

the Utility's flat rate structure to a conservation oriented rate structure. However, there is a lack of metered data. We have been in contact with the Utility President, Mr. Carey, and he has indicated to our staff that fourteen meters have been placed on Lakeside Lane. However, Mr. Carey is awaiting a loan from the Federal Government to complete individual metering in the service area. He also indicated that the time anticipated to complete metering is not yet known. This is an indication that a flat rate structure may be appropriate for this case.

Although consumption data is lacking, we calculated the customer's average consumption of 2.57 kgals per month based on total number of gallons taken from the 2008 Monthly Operating Reports, less 10 percent unaccounted-for-water, divided by the total number of bills. This number is relatively low for an unmetered customer base, which indicates that there is virtually no discretionary usage. Therefore, we find that the flat rate structure be continued. In the past, we have implemented a flat rate structure when it is not possible to obtain accurate consumption data.⁵

As noted above, the Utility's current rate structure consists of a flat rate structure. Also, the customer base is very seasonal, wherein over half of the residences are unoccupied six months out of the year. Therefore, we find that an unoccupied flat rate charge is appropriate for the seasonal customers while they are out of residence during the year. This will allow the unoccupied residence to pay only fixed costs that are associated with the Utility rather than a flat rate that includes variable costs. This rate was calculated based on the flat rate for the residences that are occupied year round times our percentage allocation of fixed costs.

Furthermore, we find that the residences that are unoccupied for at least 60 consecutive days shall receive the unoccupied rate. This will require these customers to notify the Utility when they are out of residence. Also, this will allow the Utility time to adjust the Utility's billing system. Recently, we implemented an unoccupied rate for residences that are unoccupied for at least 60 days.⁶

When the meters have been installed and there is at least 12 months of consumption data, we will be able to implement a BFC/gallonage charge rate structure in a subsequent rate proceeding. This will be consistent with Commission policy and with the overall statewide goal of eliminating conservation-discouraging water rate structures.

Based on the foregoing, we find that a dual flat rate structure which includes rates for the occupied and unoccupied residence is appropriate for the water system's residential and non-residential class.

⁵ See Order No. PSC-03-0740-PAA-WS, issued June 23, 2003 in Docket No. 021067-WS, In re: Application for staff-assisted rate case in Polk County by River Ranch Water Management, LLC.

⁶ See Order No. PSC-09-0587-PAA-WU, issued August 31, 2009 in Docket No. 080715-WU, In re: Application for staff-assisted rate case in Lake County by CWS Communities LP.

REPRESSION ADJUSTMENT

As previously discussed, we find that a flat rate structure shall be continued by the Utility at this time. Due to the fact that a flat rate structure will not let customers reduce their bills by reducing consumption, we do not believe that a reduction in consumption will occur. Therefore, a repression adjustment is not appropriate at this time.

WATER RATES

As discussed above, the appropriate revenue requirement is \$34,708 for the water system. Due to the lack of metered data coupled with low average consumption due to a highly seasonal customer base, we hereby approve a continuation of a flat rate structure. However, we find that a dual flat rate is appropriate to include a flat rate for both occupied residence year round and residence that are out of season during the year. Therefore, when the meters are in place and there is consumption data, we will be able to implement BFC/gallage charge rate structure in a subsequent rate proceeding. We have calculated the flat rates by dividing the water revenue requirement of \$34,708 by 636 factored ERCs.

The approved rates shall be effective for service rendered on or after stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates shall not be implemented until our staff has approved the proposed customer notice and the notice has been received by the customers. The Utility shall provide proof of the date notice was given no less than 10 days after the date of the notice.

If the effective date of the new rates falls within a regular billing cycle, the initial bills at the new rate may be prorated. The old charge shall be prorated based on the number of days in the billing cycle before the effective date of the new rates. The new charge shall be prorated based on the number of days in the billing cycle on and after the effective date of the new rates. In no event shall the rates be effective for service rendered prior to the stamped approval date.

Based on the foregoing, the appropriate rates for monthly service for the water are shown on Schedule 4.

REFUND OF INTERIM WATER RATES

In Order No. PSC-09-0605-PCO-WS, issued on September 8, 2009, interim water rates were approved subject to refund, pursuant to Section 367.0814(4), F.S. The approved interim revenue from rates is shown below:

	<u>Revenues</u>	<u>Increase</u>	<u>Percentage</u>
Water	\$40,668	\$18,148	80.57%

TLP did not implement the Commission-approved interim rates, due to difficulty in obtaining security. Therefore, no refund is necessary.

RETURNED CHECK CHARGE

TLP requested that it be allowed to implement a returned check charge. The Utility indicated that its actual cost for a returned checks is \$35. The actual cost includes the fee the bank charges TLP and for the bookkeeper to adjust all necessary paperwork and mail the notification to the customer. We find that this amount is reasonable, and ensures that the cost associated with returned checks is borne by the cost-causer, not the general body of ratepayers. In the past, we have approved the actual cost of returned checks.⁷ We find that TLP shall be permitted to collect its actual costs for returned checks. The Utility shall revise its tariff to reflect that the charge for returned checks will be its actual costs.

FOUR YEAR RATE REDUCTION

Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return on working capital, and the gross-up for RAFs, which is \$157 for water. Using TLP's current revenues, expenses, capital structure, and customer base, the reduction in revenues will result in the rate decreases as shown on Schedule 4.

The Utility shall be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. TLP also shall be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction.

If the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

RATES SUBJECT TO REFUND

This order approves an increase in water rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the Utility. Therefore, pursuant to Section 367.0814(7), F.S., in the event of a protest filed by a party other than TLP, we find that the rates shall be approved as temporary rates. The approved rates collected by the Utility shall be subject to the refund provisions discussed below.

TLP shall be authorized to collect the temporary rates upon our staff's approval of the appropriate security for the potential refund and the proposed customer notice. Security shall be in the form of a bond or letter of credit in the amount of \$6,612. Alternatively, the Utility could establish an escrow agreement with an independent financial institution.

⁷ See Order No. PSC-09-0263-TRF-WU, issued April 27, 2009, in Docket No. 080562-WU, In re: Request for approval of amendment to connection/transfer sheets, increase in returned check charge, amendment to miscellaneous service charges, increase in meter installation charges, and imposition of new tap-in fee, in Marion County, by East Marion Sanitary Systems Inc.

If TLP chooses a bond as security, the bond shall contain wording to the effect that it will be terminated only under the following conditions:

- 1) The Commission approves the rate increase; or
- 2) If the Commission denies the increase, the Utility shall refund the amount collected that is attributable to the increase.

If the Utility chooses a letter of credit as a security, it shall contain the following conditions:

- 1) The letter of credit is irrevocable for the period it is in effect; and
- 2) The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions shall be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the Utility without the express approval of the Commission;
- 2) The escrow account shall be an interest bearing account;
- 3) If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers;
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility;
- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times;
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt;
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments;
- 8) The Commission Clerk must be a signatory to the escrow agreement; and

- 9) The account must specify by whom and on whose behalf such monies were paid.

In no instance shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the Utility. Irrespective of the form of security chosen by TLP, an account of all monies received as a result of the rate increase shall be maintained by the Utility. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

TLP shall maintain a record of the amount of the bond and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility shall file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund.

PROOF OF ADJUSTMENTS

To ensure that the Utility adjusts its books in accordance with our decision, we find that TLP shall provide proof within 90 days of the final order issued in this docket that the adjustments for all the applicable NARUC USOA primary accounts have been made.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the application of TLP Water, Inc. for a staff-assisted rate case is hereby approved as set forth in the body of this Order. It is further

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

ORDERED that all matters contained in the attachments and schedules appended hereto are incorporated herein by reference. It is further

ORDERED that TLP Water, Inc. is authorized to charge the new rates and charges as set forth in the body of this Order and the attachments and schedules attached hereto. It is further

ORDERED that TLP Water, Inc. shall file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. It is further

ORDERED that the approved rates shall be effective for service rendered on or after the stamped approval date of the revised tariff sheets pursuant to Rule 25-30.475(1), F.A.C. It is further

ORDERED that the rates shall not be implemented until our staff has approved the proposed customer notice. It is further

ORDERED that the Utility shall provide proof of the date the notice was given no less than 10 days after the date of the notice. It is further

ORDERED that pursuant to Section 367.0814(7), F.S., the rates approved herein shall be approved for the Utility on a temporary basis subject to refund with interest, in the event of a protest filed by a party other than the Utility. It is further

ORDERED that prior to implementation of any temporary rates, the Utility shall provide appropriate security and any temporary rates shall be subject to the refund provisions set forth in the body of this Order. It is further

ORDERED that the security shall be in the form of a bond or letter of credit in the amount of \$6,612. Alternatively, the Utility could establish an escrow agreement with an independent financial institution. It is further

ORDERED that the Utility shall be authorized to collect the temporary rates upon our staff's approval of appropriate security for the potential refund and the proposed customer notice. It is further

ORDERED that in no instance shall the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and shall be borne by, the Utility. Irrespective of the form of security chosen by TLP Water, Inc., an account of all monies received as a result of the rate increase shall be maintained by the Utility. If a refund is ultimately required, it shall be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C. It is further

ORDERED that the Utility shall maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. It is further

ORDERED that after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the Utility shall file reports with the Commission's Division of Economic Regulation no later than the 20th of each month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed shall also indicate the status of the security being used to guarantee repayment of any potential refund. It is further

ORDERED that the water rates shall be reduced as shown on Schedule No. 4, to remove rate case expense grossed-up for regulatory assessment fees and amortized over a four-year period. It is further

ORDERED that the decrease in rates shall become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. It is further

ORDERED that the Utility shall file revised tariff sheets and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. It is further

ORDERED that if the Utility files this reduction in conjunction with a price index or pass-through rate adjustment, separate data shall be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. It is further

ORDERED that the Utility shall maintain its books and records in conformance with the 1996 National Association of Regulatory Utility Commissioners Uniform System of Accounts. It is further

ORDERED that except for the provision for temporary rates and the statutory four-year rate reduction, which are issued as final agency action, 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 received by the Commission Clerk, 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 the docket shall remain open until a final order has been issued, our staff has approved the revised tariffs sheets and customer notices, the Utility has sent the notices to its customers, we have received proof that the customers have received notice within 10 days after the date of the notice, and the Utility has provided our staff with proof that the adjustments for all the applicable NARUC USOA primary accounts have been made. Once we have verified all of the above actions are complete, this docket shall be closed administratively.

By ORDER of the Florida Public Service Commission this 1st day of March, 2010.



ANN COLE
Commission Clerk

(SEAL)

CMK

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.

As identified in the body of this order, except for temporary rates in the event of a protest and the statutory four-year rate reduction, which are final agency action, our action proposing a rate increase 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 Office of Commission Clerk, at 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 22, 2010. If such a petition is filed, 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. In the absence of such a petition, this order shall become effective and final upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

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, 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 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.

TLP WATER, INC.
TEST YEAR ENDING 06/30/2009
SCHEDULE OF WATER RATE BASE

SCHEDULE 1-A
DOCKET NO. 090244-WU

DESCRIPTION	BALANCE PER UTILITY	COMMISSION ADJUST. TO UTIL. BAL.	BALANCE PER COMMISSION
1. UTILITY PLANT IN SERVICE	\$0	\$70,338	\$70,338
2. LAND & LAND RIGHTS	0	0	0
3. NON-USED AND USEFUL COMPONENTS	0	0	0
4. CIAC	0	0	0
5. ACCUMULATED DEPRECIATION	0	(5,260)	(5,260)
6. AMORTIZATION OF CIAC	0	0	0
7. WORKING CAPITAL ALLOWANCE	<u>0</u>	<u>2,822</u>	<u>2,822</u>
8. WATER RATE BASE	<u>\$0</u>	<u>\$67,900</u>	<u>\$67,900</u>

TLP WATER, INC.
TEST YEAR ENDING 06/30/2009
ADJUSTMENTS TO RATE BASE

SCHEDULE 1-B
DOCKET NO. 090244-WU

WATER

UTILITY PLANT IN SERVICE

1. To reflect the appropriate plant	\$70,373
2. To reflect an averaging adjustment	(35)
Total	<u>\$70,338</u>

ACCUMULATED DEPRECIATION

1. To reflect test year depreciation calculated per 25-30.140 FAC.	(\$6,473)
2. To reflect an averaging adjustment	<u>1,213</u>
Total	<u>(\$5,260)</u>

WORKING CAPITAL ALLOWANCE

To reflect 1/8 of test year O & M expenses.	<u>\$2,822</u>
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TLP WATER, INC.
TEST YEAR ENDING 06/30/2009
SCHEDULE OF CAPITAL STRUCTURE

SCHEDULE 2
DOCKET NO. 090244-WU

CAPITAL COMPONENT	PER UTILITY	SPECIFIC ADJUST-MENTS	BALANCE BEFORE PRO RATA ADJUSTMENTS	PRO RATA ADJUST-MENTS	BALANCE PER COMM.	PERCENT OF TOTAL	COST	WEIGHTED COST
1. TOTAL COMMON EQUITY	\$0	\$0	\$0	\$0	\$0	0.00%	11.30%	0.00%
2. TOTAL LONG TERM DEBT	<u>\$136,866</u>	<u>\$0</u>	<u>\$136,866</u>	<u>(\$68,967)</u>	<u>\$67,899</u>	<u>100.00%</u>	12.00%	12.00%
3. TOTAL	<u>\$136,866</u>	<u>\$0</u>	<u>\$136,866</u>	<u>(\$68,967)</u>	<u>\$67,899</u>	<u>100.00%</u>		<u>12.00%</u>
RANGE OF REASONABLENESS						<u>LOW</u>	<u>HIGH</u>	
RETURN ON EQUITY						<u>10.30%</u>	<u>12.30%</u>	
OVERALL RATE OF RETURN						<u>12.00%</u>	<u>12.00%</u>	

TLP WATER, INC. TEST YEAR ENDING 06/30/2009 SCHEDULE OF WATER OPERATING INCOME			SCHEDULE 3-A DOCKET NO. 090244-WU		
	TEST YEAR PER UTILITY	COMMISSION ADJ. PER UTILITY	ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	REVENUE REQUIREMENT
1. OPERATING REVENUES	\$14,776	\$10,028	\$24,804	\$9,904 39.93%	\$34,708
OPERATING EXPENSES:					
2. OPERATION & MAINTENANCE	\$32,094	(\$9,521)	\$22,573	\$0	\$22,573
3. DEPRECIATION (NET)	0	2,426	2,426	0	2,426
4. AMORTIZATION	0	0	0	0	0
5. TAXES OTHER THAN INCOME	0	1,116	1,116	446	1,562
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
7. TOTAL OPERATING EXPENSES	\$32,094	(\$5,979)	\$26,115	\$446	\$26,561
8. OPERATING INCOME/(LOSS)	(\$17,318)		(\$1,311)		\$8,148
9. WATER RATE BASE	\$0		\$67,899		\$67,899
10. RATE OF RETURN	0.00%		-1.93%		12.00%

TLP WATER, INC.
TEST YEAR ENDING 06/30/2009
ADJUSTMENTS TO OPERATING INCOME

SCHEDULE 3-B
DOCKET NO. 090244-WU

	<u>WATER</u>
OPERATING REVENUES	
To reflect the appropriate test year revenues	<u>\$10,028</u>
OPERATION AND MAINTENANCE EXPENSES	
1. Materials and Supplies (620)	
a.) To remove out of period expense	<u>(\$492)</u>
2. Contractual Services - Professional (631)	
a.) To amortize legal expenses related to certification	(\$1,593)
b.) To remove legal expense related to a pending matter	<u>(6,870)</u>
Total	<u>(\$8,463)</u>
3. Contractual Services - Other	
a.) To remove out of period expenses	<u>(\$553)</u>
4. Regulatory Commission Expense (665)	
To reflect the 4 year amortization of rate case expense (\$601/4)	<u>\$150</u>
5. Miscellaneous Expense (675)	
a.) To amortize certification docket application fee	\$150
b.) To remove out of period expense	(29)
c.) To reflect the cost of post office box	180
d.) To remove an unsupported expense	(394)
e.) To remove noticing expense included in rate case expense	(70)
Total	<u>(\$163)</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS	<u>(\$9,521)</u>
	<u>WATER</u>
DEPRECIATION EXPENSE	
To reflect test year depreciation calculated per 25-30.140, F.A.C.	<u>\$2,426</u>
TAXES OTHER THAN INCOME	
1. To include regulatory assessment fees on test year revenue.	<u>\$1,116</u>

TLP WATER, INC.
TEST YEAR ENDING 06/30/2009
ANALYSIS OF WATER OPERATION AND
MAINTENANCE EXPENSE

SCHEDULE 3-C
DOCKET NO. 090244-WU

	TOTAL PER UTILITY	COMMISSION ADJUST.	TOTAL PER COMM.
(601) SALARIES AND WAGES - EMPLOYEES	\$0	\$0	\$0
(603) SALARIES AND WAGES - OFFICERS	0	0	0
(604) EMPLOYEE PENSION & BENEFITS	0	0	0
(610) PURCHASED WATER	0	0	0
(615) PURCHASED POWER	626	0	626
(616) FUEL FOR POWER PRODUCTION	0	0	0
(618) CHEMICALS	0	0	0
(620) MATERIALS AND SUPPLIES	3,412	(492)	2,920
(630) CONTRACTUAL SERVICES - BILLING	0	0	0
(631) CONTRACTUAL SERVICES - PROFESSIONAL	14,263	(8,463)	5,800
(635) CONTRACTUAL SERVICES - TESTING	1,216	0	1,216
(636) CONTRACTUAL SERVICES - OTHER	6,445	(553)	5,892
(640) RENTS	3,720	0	3,720
(650) TRANSPORTATION EXPENSE	0	0	0
(655) INSURANCE EXPENSE	910	0	910
(665) REGULATORY COMMISSION EXPENSE	0	150	150
(670) BAD DEBT EXPENSE	0	0	0
(675) MISCELLANEOUS EXPENSES	<u>1,502</u>	<u>(163)</u>	<u>1,339</u>
	<u>\$32,094</u>	<u>(\$9,521)</u>	<u>\$22,573</u>

TLP WATER, INC.			SCHEDULE 4	
TEST YEAR ENDING 06/30/2009			DOCKET NO. 090244-WU	
MONTHLY WATER RATES				
	UTILITY'S EXISTING RATES	COMMISSION APPROVED INTERIM RATES	COMMISSION APPROVED RATES	4 YEAR RATE REDUCTION
<u>Residential and General Service</u>				
<u>All Meter Sizes</u>				
Flat Rate	\$39.00	\$70.42		
Flat Rate			\$59.80	\$0.27
Vacation Rate			\$42.99	\$0.20