

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of change in reuse
rate by Aqua Utilities Florida, Inc.

DOCKET NO. 100049-WS
ORDER NO. PSC-10-0602-TRF-WS
ISSUED: October 1, 2010

The following Commissioners participated in the disposition of this matter:

NANCY ARGENZIANO, Chairman
LISA POLAK EDGAR
NATHAN A. SKOP
ART GRAHAM
RONALD A. BRISÉ

ORDER APPROVING REDUCED REUSE RATE
AND PROPOSED TARIFF

BY THE COMMISSION:

Background

Aqua Utilities Florida, Inc. (AUF) is a wholly-owned subsidiary of Aqua America, Inc. AUF provides water and wastewater service in eighty-two certificated service areas (57 water and 25 wastewater systems) in 16 counties. Water and wastewater rates were last established for AUF in its 2008 rate case.¹ In that rate case, we approved AUF's current monthly reuse rate of \$3,053. This is a flat rate and is only available to a single customer, South Seas Island Resort (SSIR), located on Captiva Island in Lee County. On January 22, 2010, AUF filed an application and proposed tariff sheet to reduce the reuse rate for SSIR to zero. This Order addresses AUF's application and proposed tariff sheet. We have authority to consider this matter pursuant to Section 367.091, Florida Statutes (F.S.)

AUF Effluent

AUF is required by law to properly dispose of treated effluent from its wastewater treatment plant (WWTP). AUF has utilized the SSIR golf course, located adjacent to the WWTP, as its approved disposal site since AUF's acquisition of the system. An irrigation rate for this wastewater system has been in place since 1989, prior to its acquisition by AUF. The current reuse rate was approved in AUF's last rate case.² The Florida Department of Environmental Protection requires AUF to enter into a contract with the disposal site owner;

¹ See Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

² Order No. PSC-09-0385-FOF-WS, issued May 29, 2009, in Docket No. 080121-WS, In re: Application for increase in water and wastewater rates in Alachua, Brevard, DeSoto, Highlands, Lake, Lee, Marion, Orange, Palm Beach, Pasco, Polk, Putnam, Seminole, Sumter, Volusia, and Washington Counties by Aqua Utilities Florida, Inc.

DOCUMENT NUMBER DATE

08222 OCT-1 09

FPSC-COMMISSION CLERK

therefore, AUF has entered into an Effluent and Irrigation Agreement (Reuse Agreement) with SSIR. The current Reuse Agreement with SSIR was executed with the understanding that all costs to pipe and deliver the effluent to SSIR would be borne by AUF and that SSIR would pay for the volume of effluent delivered pursuant to the reuse rate set forth in AUF's existing tariff.

AUF's Application for Change in Reuse Rate

AUF filed its Application for Change in Reuse Rate and proposed tariff sheet on January 22, 2010, seeking to reduce the approved tarified reuse rate for SSIR to zero, thereby allowing AUF to provide the effluent at no cost to SSIR. According to AUF's petition, SSIR has refused to pay AUF the tarified rate for the effluent since November 2006, despite AUF's diligent efforts to collect its tariff reuse rate from SSIR. Further, according to AUF's petition, SSIR continues to assert that it is entitled to receive the effluent from AUF's WWTP at no cost. In an attempt to resolve the impasse, AUF has offered a payment plan to SSIR whereby SSIR would pay the tariff reuse rate over time. However, SSIR has rejected this offer and made it clear that it will cease to allow AUF to dispose of its effluent on SSIR property if AUF continues to insist on imposing and collecting its tariff reuse rate.

AUF has continued to provide SSIR with effluent water during this non-payment period, as the only currently viable option for effluent disposal is the SSIR golf course located adjacent to the WWTP. Accordingly, AUF's petition seeks to reset its approved tarified rate to zero because alternative disposal costs would outweigh the cost of setting the reuse rate to zero.

Analysis and Decision

SSIR holds Water Use General Permit No. 36-00109-W from the South Florida Water Management District (SFWMD) issued on November 21, 2005. This permit allows SSIR to use ground water from the Mid-Hawthorn Aquifer "in the event that reclaimed water is unavailable." During the application process for the petition, SSIR requested a back-up allocation in the event reclaimed water is not available. SFWMD advises that the least quality water suitable for irrigation be used first; in this case, the effluent water supplied by AUF is the best alternative to drawing from the aquifer. We note that the SSIR arrangement is more than adequate to meet AUF's current effluent disposal needs.

AUF's current monthly reuse rate is \$3,053. This is a flat rate and is available only to SSIR. The WWTP is permitted for a maximum capacity of 264,000 gallons per day on an annual average basis. On a monthly basis this equates to about 7,920,000 gallons or about \$0.39 per kgal. This rate offsets the wastewater costs for all AUF customers, including residential customers. Thus, if we approve the reduced reuse rate, the lost revenue will have to be built into the residential wastewater rates during AUF's next rate case proceeding.

Events in January (ten days) and May (twelve days) of 2010 interrupted the treated wastewater irrigation supply (reuse) to the golf course. Both of these occurrences resulted from biological upsets of the wastewater treatment process which caused treated effluent to be diverted to "Reject" storage tanks, instead of going to the reclaimed storage tank to be used for golf course irrigation. During both of the Reject events the largest tank being filled ruptured at

the seams. This tank, which was repaired in January, failed again in May. With the main tank failure, the flows were diverted to smaller tanks. Because of inadequate storage space during the biological recovery period, effluent had to be hauled offsite for additional treatment. During the Reject events, AUF incurred expenses of approximately \$15,893 for January and \$16,822 for May. If SSIR were to discontinue receiving the effluent, AUF's customers would be responsible for the disposal costs. On an annual basis, this is approximately \$545,878 (at an average of \$1,496 per day) compared to the annual reuse revenue of \$36,639 (at an average of \$100 per day).

Generally, reuse rates cannot be determined in the same fashion as other water and wastewater rates set by this Commission. Reuse rates based on rate base and revenue requirement would typically be so high that it would be impractical to use reuse at all due to the revenue needed to supply the service. We recognize the need to promote reuse and that reuse is a valuable water source which should not be wasted. In setting reuse rates, we must consider the type of customer being served, and balance the disposal needs of a utility with the consumption needs of the customer. In this case, AUF's only reuse customer is SSIR and AUF does not plan to expand its reuse service in the near future.

In Order No. PSC-99-0513-FOF-WS, we stated that "[w]e believe from a policy standpoint that reclaimed water should be regarded as a valuable resource for which a charge should apply when possible."³ In this case, it is clear that AUF views SSIR as a disposal site rather than a reuse customer. Having a reliable, readily available disposal site clearly benefits AUF. We also believe that there are some benefits to SSIR, such as those associated with obtaining future consumptive use permits and a reduction in pumping costs to SSIR. In addition, we note that AUF's continued failure to charge and collect the currently approved tariff rate puts AUF in violation of its tariff.

In additional support of its request, AUF cited Order No. PSC-97-0280-FOF-WS⁴ in its petition. This Order addressed Aloha Utilities, Inc.'s request for approval of a Reuse Project Plan and an increase in wastewater rates in Pasco County. In that case, we approved a zero rate for effluent water because the customer had alternative irrigation sources. In the instant case, SSIR also has an alternative irrigation source, specifically, the Mid Hawthorne Aquifer. Thus, we believe that in order to keep the customer/utility relationship favorable for both parties, a similar zero rate is appropriate. Further, if AUF's request is approved, SSIR will accept the effluent and AUF can avoid having to find alternative, more costly, disposal sources. Accordingly, we find that it is more cost efficient for AUF to provide the effluent to SSIR at no cost than to incur expenses to create another viable option for disposal.

We note that the reuse provided to SSIR has a monetary value set forth by the current reuse rate tariff. We hereby direct Commission staff to work with AUF to explore the possibility of the Utility treating the delivery of the reuse to SSIR as a donation or a gift-in-kind and further

³ Order No. PSC-99-0513-FOF-WS issued March 12, 1999, in Docket No. 980214-WS, In re: Application for rate increase in Duval, St. Johns and Nassau Counties by United Water Florida Inc., at p. 68.

⁴ Order No. PSC-97-0280-FOF-WS issued March 12, 1997, in Docket No. 950615-WS, In re: Application for approval of Reuse Project Plan and increase in wastewater rates in Pasco County by Aloha Utilities, Inc.

explore whether that treatment may result in a tax benefit that might accrue to AUF and be passed through to its customers to lower the customers' tax allocation. If Commission staff identifies a change or suggestion that will be of benefit to AUF and its customers, our staff is directed to bring that suggestion forward for our consideration.

For reasons stated above, we hereby approve a special reuse rate which will allow for AUF to provide effluent to SSIR at no cost. AUF's proposed tariff sheet reflecting the revised reuse rate shall be approved. The Utility shall file a proposed customer notice to reflect the Commission-approved tariff sheet. The new rate shall be effective for service rendered as of the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code.

If no timely protest is filed by a substantially affected person within 21 days of the issuance of this Order, a Consummating Order shall be issued and the docket shall be closed. In the event there is a timely protest, this docket shall remain open pending resolution of the protest.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Aqua Utilities Florida, Inc.'s application for a special reuse rate is hereby approved. It is further

ORDERED that Aqua Utilities Florida, Inc.'s proposed tariff sheet reflecting the revised reuse rate shall be approved. It is further

ORDERED that Aqua Utilities Florida, Inc. shall file a proposed customer notice to reflect the Commission-approved tariff sheet. It is further

ORDERED that the new rate shall be effective for service rendered as of the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), Florida Administrative Code. It is further

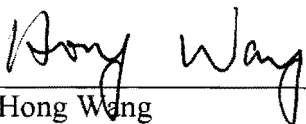
ORDERED that Commission staff shall work with Aqua Utilities Florida, Inc. to explore possible tax benefits as described in the body of this Order. It is further

ORDERED that if a protest is filed within 21 days of issuance of the Order, the tariff shall remain in effect with any charges held subject to refund pending resolution of the protest. It is further

ORDERED that if no timely protest is filed, this docket shall be closed upon the issuance of a Consummating Order.

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

ANN COLE
Commission Clerk

By: 

Hong Wang
Management Review Specialist

(S E A L)

JSC

DISSENT BY: COMMISSIONER SKOP

COMMISSIONER SKOP, dissenting without separate opinion:

NOTICE OF FURTHER PROCEEDINGS

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The Commission's decision on this tariff is interim in nature and will become final, unless a person whose substantial interests are affected by the proposed action files 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on October 22, 2010.

In the absence of such a petition, this Order shall become final and effective 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.