

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water and wastewater rates in Charlotte, Highlands, Lake, Lee, Marion, Orange, Pasco, Pinellas, Polk, and Seminole Counties by Utilities, Inc. of Florida.

DOCKET NO. 160101-WS  
ORDER NO. PSC-16-0530-PAA-WS  
ISSUED: November 22, 2016

The following Commissioners participated in the disposition of this matter:

JULIE I. BROWN, Chairman  
LISA POLAK EDGAR  
ART GRAHAM  
RONALD A. BRISÉ  
JIMMY PATRONIS

NOTICE OF PROPOSED AGENCY ACTION  
ORDER APPROVING RULE VARIANCE

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that 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

On August 31, 2016, Utilities Inc. of Florida (UIF or Utility) filed an application for approval of interim and final water and wastewater rate increases. By letter dated September 29, 2016, staff advised the Utility that its Minimum Filing Requirements (MFRs) had several deficiencies. The Utility replied with updated MFRs on October 31, 2016. By letter dated November 17, 2016, staff advised UIF that its MFRs still had several deficiencies. The deadline to correct those deficiencies is December 17, 2016. To date, the official date of filing has not been established for noticing purposes.

The intervention of the Office of Public Counsel was acknowledged by Order No. PSC-16-0189-PCO-WS, issued May 10, 2016, in this docket.

On October 10, 2016, UIF filed a Petition for Variance or Waiver of one specific requirement of Commission Form PSC/AFD 19-W (11/93) which form is incorporated by reference by Rule 25-30.437, F.A.C. The Utility has filed an application for a file and suspend rate increase. Information required in such a case includes the information contained in

Commission Form PSC/AFD 19-W (11/93) which form is incorporated by reference by Rule 25-30.437, FAC (“MFRs”).

A Florida Administrative Register notice was issued on October 11, 2016, advising that the Petition was received and providing for a 14-day comment period. The comment period expired on October 25, 2016. No comments were received.

UIF has been authorized by Office of Public Counsel to represent that: “OPC does not oppose UIF’s request for rule waiver as to deficiency 5(e)1 identified on the September 29, 2016 MFR deficiency letter.”

This Commission has jurisdiction pursuant to Sections 120.542 and 367.081, F.S.

### Analysis and Ruling

We adopted Schedule E-14, of Commission Form PSC/AFD 19-W (11/93), as incorporated by reference in Rule 25-30.437, F.A.C. to provide this Commission with the data to create an annualized test year in order to evaluate a utility who has filed a petition for a proposed rate increase in accordance with 367.081, F.S. Schedule E-14 of the MFRs requires a billing analysis for each class of service by meter size. If a rate change has occurred during the test year, then a separate billing analysis coinciding with each period must also be provided. Although UIF provided the billing analysis, it did not provide a separate billing analysis which coincides with each period of rate change during the test year. This resulted in deficiency 5e1 of Commission staff’s September 29, 2016 Deficiency Letter.

UIF has asserted that strict adherence to the requirements of Schedule E-14 would result in a substantial hardship as defined in Section 120.542(2), F.S., in that the Utility would have incurred an inordinate amount of time to prepare an additional 700 to 900 individual billing schedules. UIF also asserted that its prior submission of annualized billing analyses from the test year obviates the requirement for the additional documents.

The requested waiver or variance is required to provide relief from the burden of creating and producing the detailed billing analyses with billing changes. The application of this specific MFR requirement would lead to an unreasonable, unfair, and unintended result. The purpose of this specific MFR requirement has already been achieved through the billing analysis schedules already filed by UIF in this docket.

We are authorized by Section 120.542, F.S., to grant variances or waivers to the requirements of our rules where the party subject to the rules has demonstrated that the underlying purpose of the statute has been or will be achieved by other means and strict application of the rules would cause the party substantial hardship or violate principles of fairness. “Substantial hardship,” as defined in this section, means demonstrated economic, technological, legal, or other hardship.

Section 367.081, F. S., provides that this Commission shall fix rates which are just, reasonable, compensatory and not unfairly discriminatory. The underlying purpose for gathering

the information required by Rule 25-30.437, F.A.C., is to provide sufficient information for us to set appropriate rates for a utility. The Utility has provided the information in its MFRs that will permit the staff and parties to examine revenues for the test year period. The information the Utility is seeking to waive is not necessary for that determination. Therefore, the underlying purpose of the statute can still be met if the waiver is granted. Further, we find the Utility has sufficiently alleged hardship should it be required to comply with the rule.

By granting this waiver, UIF will avoid incurring a substantial hardship without adversely impacting our ability to determine the annualized adjustment for the test year. Therefore, the Utility's request for waiver shall be granted.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Petition for Variance or Waiver of one specific requirement of Commission Form PSC/AFD 19-W (11/93) which form is incorporated by reference by Rule 25-30.437, Florida Administrative Code ("FAC"), filed by Utility Inc. of Florida, is granted as set forth herein. It is further

ORDERED that 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 that in the event this Order becomes final, this docket shall remain open until the rate case has been finalized.

By ORDER of the Florida Public Service Commission this 22nd day of November, 2016.

  
CARLOTTA S. STAUFFER  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

WLT

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 that is available under Section 120.57, 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 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 action proposed herein 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 13, 2016.

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/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.