

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in Lake County, and request for interim rate increase, by Lake Yale Utilities, LLC.	DOCKET NO. 20200169-WS ORDER NO. PSC-2020-0310-PCO-WS ISSUED: September 14, 2020
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The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman  
ART GRAHAM  
JULIE I. BROWN  
DONALD J. POLMANN  
ANDREW GILES FAY

ORDER APPROVING INTERIM RATES

BY THE COMMISSION:

**Case Background**

Lake Yale Utilities, LLC (Lake Yale or Utility) is a Class C utility serving approximately 405 residential water customers and one general service water customer, and approximately 336 residential wastewater customers and one general service wastewater customer in Lake County. The Florida Public Service Commission (Commission) last set rates in an original certificate proceeding in 1994.<sup>1</sup> However, the Utility's rates have been amended through eight price index rate increases. The Utility was transferred to the present operator in 2018<sup>2</sup> and has never had a staff-assisted rate case before the Commission. According to Lake Yale's 2019 Annual Report, total gross water revenue was \$68,906, total gross wastewater revenue was \$55,021, total water operating expense was \$62,611, and total wastewater operating expense was \$64,539.

On June 19, 2020, Lake Yale filed its application for a staff-assisted rate case. The Utility has requested a test year ended December 31, 2019, for purposes of interim and final rates.

By this Order, we address the Utility's request for interim rates. We have jurisdiction pursuant to Sections 367.082 and 367.0814(4), Florida Statutes (F.S).

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<sup>1</sup>Order No. PSC-94-0171-FOF-WS, issued February 10, 1994, in Docket No. 19930133-WS, *In re: Application for Water and Wastewater Certificates in Lake County by LAKE YALE CORPORATION d/b/a LAKE YALE UTILITY COMPANY*.

<sup>2</sup>Order No. PSC-2018-0554-PAA-WS, issued November 20, 2018, in Docket No. 20170220-WS, *In re: Application for approval of transfer of Lake Yale Treatments Associates, Inc. water and wastewater systems and Certificate Nos. 560-W and 488-S in Lake County to Lake Yale Utilities, LLC*.

## Review and Decision

### Interim Revenue Increase

On June 19, 2020, Lake Yale filed an application requesting an interim revenue increase in its wastewater rates. Section 367.0814(4), F.S., details the criteria for evaluating a request for an interim rate increase for staff-assisted rate cases.

Section 367.0814(4), F.S., states:

The Commission may, upon its own motion, or upon petition from the regulated utility, authorize the collection of interim rates until the effective date of the final order. Such interim rates may be based upon a test period different from the test period used in the request for permanent rate relief. To 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 have reviewed the Utility's operation and maintenance (O&M) expenses in relation to its revenues. Based on the Utility's filing, we find that Lake Yale has demonstrated a *prima facie* entitlement to an interim rate increase in accordance with Section 367.0814(4), F.S.

In order to establish interim rate relief as prescribed by Section 367.0814(4), F.S., we used the Utility's revenues reflected in its 2019 Annual Report for the test year ended December 31, 2019. The filed revenues exceeded O&M expenses for the water system, but not for the wastewater system. Thus, we shall approve an interim increase for the wastewater system only. The test year revenues for wastewater are \$55,021, and the test year O&M expenses for wastewater are \$64,539. The difference between the Utility's reported revenues and O&M expenses for wastewater is \$9,518.

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.<sup>3</sup> Furthermore, by approving an interim rate increase that allows for the payment of RAFs, the Utility should be able to fully cover its O&M expenses. The RAFs associated with the interim increase equal \$448.

In total, Lake Yale shall be allowed an interim wastewater revenue increase of \$9,966 (\$9,518 + \$448) to produce revenues sufficient to cover O&M expenses and additional RAFs. Thus, we find the appropriate interim revenue requirement to be \$64,987. This is an 18.11

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<sup>3</sup>Order No. PSC-01-1654-FOF-WS, issued August 13, 2001, in Docket No. 20010396-WS, *In re: Application for staff-assisted rate case in Brevard County by Burkim Enterprises, Inc.*

percent increase above the Utility's wastewater test year revenues. The table below illustrates our interim increase calculation.

#### **Determination of Interim Increase**

	Water	Wastewater
1. Utility Test Year O&M Expenses	\$62,611	\$64,539
2. Less: Utility Test Year Revenues	<u>\$68,906</u>	<u>\$55,021</u>
3. Revenues to Cover O&M Expenses	<u>(\$6,295)</u>	<u>\$9,518</u>
4. Interim Revenue Increase	\$0	\$9,518
5. RAFs on Interim Rate Increase	<u>\$0</u>	<u>\$448</u>
6. Total Interim Revenue Increase (\$)	<u>\$0</u>	<u>\$9,966</u>
7. Total Interim Revenue Increase (%)	0.00%	18.11%

#### **Interim Wastewater Rates**

Wastewater interim service rates for Lake Yale shall be designed to allow the Utility the opportunity to generate annual operating revenues of \$64,987 for wastewater. Since there were no miscellaneous service revenues reported by the Utility for the test year, this will result in an increase of \$9,966 (18.11 percent) to service rates.

The wastewater interim rate increase of 18.11 percent shall be applied as an across-the-board increase to the service rates in effect as of December 31, 2019.<sup>4</sup> The rates, as shown on Schedule No. 1, shall be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. The Utility shall file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates shall not be implemented until the required security has been filed, 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 the notice was given within 10 days of the date of the notice.

#### **Security to Guarantee Increase**

Pursuant to Section 367.082, F.S., revenues collected under interim rates shall be placed under bond, escrow, letter of credit, or corporate undertaking subject to refund with interest at a rate ordered by the Commission. The approved interim increase for wastewater is \$9,966. In accordance with Rule 25-30.360, F.A.C., we calculated the potential refund of revenues and interest collected under interim conditions to be \$6,648. This amount is based on an estimated eight months of revenue being collected under the approved interim rates shown on Schedule No. 1.

<sup>4</sup>The Utility had a 2020 price index effective June 5, 2020. Interim rate increases are applied to the rates in effect at the end of the test year.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We reviewed Lake Yale's financial condition. Because the Utility has no meaningful liquidity, has negative interest coverage, has reported significant net losses year over year, and has negative ownership equity, we do not find that the Utility can support a corporate undertaking in the amount requested at this time. Lake Yale shall be required to secure a surety bond, letter of credit, or escrow agreement to guarantee any potential refund.

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

1. The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement.
2. No monies in the escrow account may be withdrawn by the Utility without the express approval of the Commission Clerk, or his or her designee.
3. The escrow account shall be an interest-bearing account.
4. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
5. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Utility.
6. All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
7. The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
8. 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.
9. The account must specify by whom and on whose behalf such monies were paid.

If the security provided is a surety bond or a letter of credit, said instrument shall be in the amount of \$6,648. If the Utility chooses a surety bond as security, the surety bond shall state that it will be released or terminated only upon subsequent order of the Commission. If the Utility 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 releasing the funds to the Utility or requiring a refund.

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 the Utility, 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.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Lake Yale Utilities, LLC is authorized to collect interim revenues set forth below:

	<b>Test Year Revenues</b>	<b>\$ Increase</b>	<b>Revenue Requirement</b>	<b>% Increase</b>
Water	\$68,906	\$0	\$68,906	0.00%
Wastewater	\$55,021	\$9,966	\$64,987	18.11%

It is further

ORDERED that the interim rate increase of 18.11 percent shall be applied as an across-the-board increase to the wastewater service rates in effect as of December 31, 2019. The rates, as shown on Schedule No. 1, shall be effective for service rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. It is further

ORDERED that Lake Yale Utilities, LLC shall file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. In addition, the approved rates shall not be implemented until the required security has been filed, our staff has approved the proposed customer notice, and the notice has been received by the customers. Lake Yale Utilities, LLC shall provide proof of the date the notice was given within 10 days of the date of the notice. It is further

ORDERED that Lake Yale Utilities, LLC shall be required to open an escrow account or secure a surety bond or letter of credit to guarantee any potential refund of revenues collected under interim conditions. If the security provided is an escrow account, Lake Yale Utilities, LLC shall deposit \$831 into the escrow account each month. Otherwise, the surety bond or letter of credit shall be in the amount of \$6,648. Pursuant to Rule 25-30.360(6), F.A.C., Lake Yale Utilities, LLC shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. Should a refund be required, the refund shall be with interest and in accordance with Rule 25-30.360, F.A.C. It is further

ORDERED that this docket shall remain open to address the merits of Lake Yale's staff-assisted rate case.

By ORDER of the Florida Public Service Commission this 14th day of September, 2020.



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ADAM J. TEITZMAN  
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Florida Public Service Commission  
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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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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 10 days pursuant to Rule 25-22.0376, 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 25-22.0376, 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.

<b>LAKE YALE UTILITIES, LLC</b>		<b>SCHEDULE NO. 1</b>	
<b>TEST YEAR ENDED DECEMBER 31, 2019</b>		<b>DOCKET NO. 20200169-WS</b>	
<b>MONTHLY WASTEWATER RATES</b>			
	<b>RATES IN EFFECT AT 12/31/19 (1)</b>	<b>CURRENT RATES (2)</b>	<b>COMMISSION APPROVED INTERIM RATES</b>
<b><u>Residential Service</u></b>			
All Meter Sizes	\$10.67	\$10.86	\$12.60
Charge per 1,000 gallons 10,000 gallon cap	\$2.72	\$2.77	\$3.21
<b><u>General Service</u></b>			
5/8" X 3/4"	\$10.67	\$10.86	\$12.60
3/4"	\$16.01	\$16.29	\$18.90
1"	\$26.68	\$27.15	\$31.50
1 1/2"	\$53.35	\$54.30	\$63.00
2"	\$85.36	\$86.88	\$100.80
3"	\$170.72	\$173.76	\$201.60
4"	\$266.75	\$271.50	\$315.00
6"	\$533.50	\$543.00	\$630.00
8"	\$853.60	\$868.80	\$1,008.00
Charge per 1,000 gallons	\$3.24	\$3.30	\$3.83
<b><u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u></b>			
3,000 Gallons	\$18.83	\$19.17	\$22.23
6,000 Gallons	\$26.99	\$27.48	\$31.86
10,000 Gallons	\$37.87	\$38.56	\$44.70
(1) The interim rate increase was applied to the rates in effect as of 12/31/2019.			
(2) The current rates became effective June 5, 2020 as a result of a price index.			