

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in
Highlands County by HC Waterworks, Inc.

DOCKET NO. 20190166-WS
ORDER NO. PSC-2021-0089-S-WS
ISSUED: February 22, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
JULIE I. BROWN
ANDREW GILES FAY
MIKE LA ROSA

ORDER GRANTING JOINT MOTION AND APPROVING
STIPULATION AND SETTLEMENT AGREEMENT

BY THE COMMISSION:

Background

HC Waterworks, Inc. (HC or Utility) is a Class B utility providing water service to approximately 949 residential customers, 9 general service customers, and 1 private fire protection customer in the Leisure Lakes, Lake Josephine, and Sebring Lakes subdivisions in Highlands County. HC also provides wastewater service to 323 residential wastewater customers in the Leisure Lakes subdivision. On October 15, 2019, HC filed its application for an increase in water rates. The Utility requested that the application be processed using the Proposed Agency Action (PAA) procedure and a test year ended June 30, 2019. The Utility was notified of deficiencies in the MFRs on November 12, 2019, and December 6, 2019. The deficiencies were cured and December 13, 2019, was established as the official filing date.

On May 22, 2020, we issued PAA Order No. PSC-2020-0168-PAA-WS (Order). By that Order, we found the Utility's quality of service to be unsatisfactory due to the high volume of customer complaints, and therefore reduced the Utility's return on equity by 50 basis points. We also ordered the Utility to work with its customers and the Office of Public Counsel (OPC) to resolve customer service issues. On June 12, 2020, OPC timely filed a petition protesting those portions of the Order related to the Commission's decision on HC's quality of service. On June 16, 2020, HC filed its response to OPC's petition and also a cross petition requesting the Commission dismiss OPC's protest.

On August 11, 2020, HC and OPC filed a joint motion for approval of a stipulation and settlement agreement (Agreement), a copy of which is appended hereto as Attachment A. The Agreement addresses issues associated with the Utility's quality of service. On September 15, 2020, Commission staff held a noticed informal meeting with the parties to discuss the

Agreement. Subsequently on December 18, 2020, Commission staff sent a data request to the parties requesting clarification of certain terms within the Agreement. HC and OPC filed their responses on December 21, 2020, and January 8, 2021, respectively. In response to staff's data request, the joint movants indicate that the instant docket shall be closed upon the Utility's filing of its final status report. Additionally, the responses confirm that OPC has scheduled a virtual meeting with customers, Highlands County Commission personnel, and HC to occur on January 21, 2021, which staff plans to attend.

The Commission has jurisdiction pursuant to Sections 367.081 and 367.121, F.S.

Decision

The standard for approval of a settlement agreement is whether it is in the public interest.¹ A determination of whether a settlement is in the public interest requires a case-specific analysis based on consideration of the proposed settlement taken as a whole.²

The Agreement serves the public interest directly with provisions to improve customer and utility engagement and the Utility will file quarterly status reports, in the docket file, detailing these engagements beginning 3 months after the issuance of this order for a period of one year. The Agreement also sets forth processes to enhance communications flowing from HC to its customers regarding matters such as planned outages and precautionary boil water notices. The Agreement does not impact the rates we approved by Order PSC-2020-0168-PAA-WS.

Having carefully reviewed the Agreement, we find that, taken as a whole, the Agreement is in the public interest, and we hereby approve it.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the joint motion for approval of a stipulation and settlement agreement filed August 11, 2020, is granted, and the stipulation and settlement agreement is approved. It is further

¹ *Sierra Club v. Brown*, 243 So. 3d 903, 910-913 (Fla. 2018); Order No. PSC-13-0023-S-EI, issued on January 14, 2013, in Docket No. 120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company*; Order No. PSC-11-0089-S-EI, issued February 1, 2011, in Docket Nos. 080677-EI and 090130-EI, *In re: Petition for increase in rates by Florida Power & Light Company and In re: 2009 depreciation and dismantlement study by Florida Power & Light Company*; Order No. PSC-10-0398-S-EI, issued June 18, 2010, in Docket Nos. 090079-EI, 090144-EI, 090145-EI, and 100136-EI, *In re: Petition for increase in rates by Progress Energy Florida, Inc., In re: Petition for limited proceeding to include Bartow repowering project in base rates, by Progress Energy Florida, Inc., In re: Petition for expedited approval of the deferral of pension expenses, authorization to charge storm hardening expenses to the storm damage reserve, and variance from or waiver of Rule 25-6.0143(1)(c), (d), and (f), F.A.C., by Progress Energy Florida, Inc., and In re: Petition for approval of an accounting order to record a depreciation expense credit, by Progress Energy Florida, Inc.*; Order No. PSC-05-0945-S-EI, issued September 28, 2005, in Docket No. 050078-EI, *In re: Petition for rate increase by Progress Energy Florida, Inc.*

² Order No. PSC-13-0023-S-EI, at p. 7.

ORDERED that this docket shall be administratively closed once the Utility files its last status report in the docket file.

By ORDER of the Florida Public Service Commission this 22nd day of February, 2021.



ADAM J. TEITZMAN
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.

SPS

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.

ATTACHMENT A

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for increase in water rates in
Highlands County by HC Waterworks, Inc.

DOCKET NO. 20190166-WU

FILED: August 11, 2020

STIPULATION AND SETTLEMENT AGREEMENT

WHEREAS, HC Waterworks, Inc. (HC or Utility), and the Citizens of the State of Florida, through the Office of Public Counsel (“OPC”), have signed this Stipulation and Settlement (the “Agreement;” unless the context clearly requires otherwise, the term “Party” or “Parties” means a signatory to this Agreement); and

WHEREAS, on August 26, 2019, HC initiated the subject docket by submitting a Request for Test Year Approval Pursuant to Rule 25-30.430, Florida Administrative Code; and

WHEREAS, on October 15, 2019, HC filed its Application for increase in interim and final water rates; and

WHEREAS, on May 22, 2020, the Public Service Commission (“PSC” or “the Commission”) entered PAA Order PSC-2020-0168-PAA-WS, approving an increase in water rates for HC Waterworks (“PAA Order”); and

WHEREAS, page 24 of the PAA Order “require[s] that HC engage with its customers and the Office of Public Counsel in an ongoing effort to address the Utility’s service quality and communication issues,” and

WHEREAS, OPC filed a Petition Protesting Portions of the PAA Order and Motion for Clarification of the PAA Order on June 12, 2020; and

WHEREAS, HCW filed a response and cross-protest petition on June 16, 2020; and

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Stipulation and Settlement Agreement

WHEREAS, the Parties to this Agreement have undertaken to resolve the issues raised in this docket so as to achieve fairness to customers and the Utility and to ensure compliance with the applicable Florida Statutes and Florida Rules of Administrative Procedure; and

WHEREAS, the Parties have entered into this Agreement in compromise of positions taken in accord with their rights and interests under Chapters 350, 367 and 120, Florida Statutes, as applicable, and as a part of the negotiated exchange of consideration among the parties to this Agreement each has agreed to concessions to the others with the expectation that all provisions of the Agreement will be enforced by the Commission as to all matters addressed herein with respect to all Parties upon acceptance of the Agreement as provided herein and upon approval in the public interest;

NOW THEREFORE, in consideration of the foregoing and the covenants contained herein, the Parties hereby stipulate and agree:

1. This Agreement will become effective on the date it is approved by the Commission (the "Effective Date").
2. The Parties agree to work together to engage with HC's customers. The Parties further agree that the appropriate Commission Staff should be involved in HC's engagement with customers and the Office of Public Counsel in the ongoing effort to address the Utility's service quality and communication issues referenced in the PAA Order.
3. The Parties agree that HC shall file quarterly status reports in PSC Docket No. 20190166 beginning three months after the Final Order approving rates is entered and ending one year after the Final Order is entered. The quarterly status reports shall include details regarding (a) all customer complaints received by HC from August 1, 2020 to the end of the reporting period, and (b) all other communication between HC and its customers

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(individual and system-wide customer communications) from August 1, 2020 to the end of the reporting period. Regarding the customer complaints, the details to be included in the quarterly status reports shall include, but not be limited to, the name, address and contact information (phone and/or email) of each complaining customer; the substance of each complaint; whether and how each complaint was resolved; the amount of time from HC's receipt of the original complaint to resolution; and the Utility's post-resolution follow-up with the customer (the date and manner in which the resolution was communicated to the customer).

4. The Parties agree that HC will timely inform its customers before any pre-planned outages, including but not limited to, system repairs and service. This does not include unforeseen outages beyond HC's control, such as spontaneous outages caused by sudden power outages, lightning strikes, hurricanes, or mechanical failures, in which case HC will notify customers as soon as the emergency allows. HC Waterworks will follow the prescribed noticing for precautionary boil water notices pursuant to the Florida Department of Environmental Protection and Department of Health regulations.
5. The Parties agree to withdraw their respective petitions regarding the PAA Order, and that the terms agreed to herein shall be made part of an Amended PAA Order. The Parties agree that the terms of the Amended PAA Order shall, without protest from either Party, become final and effective upon the issuance of a Consummating Order or issuance of such other Order entered by the Commission to implement the terms of the Amended PAA Order.
6. The Parties agree and respectively request that the Commission Staff participate in any scheduled activities with HC's customers, HC, and OPC in order to address service quality and communication, and to measure customer satisfaction on or before February 28, 2021.

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This may include, but is not limited to, participation in any customer meetings, County Commissioner meetings, or follow-up telephone calls.


7. No Party to this Agreement will request, support, or seek to impose a change in the application of any provision hereof.
8. The provisions of this Agreement are contingent on approval of this Agreement in its entirety by the Commission without modification. The Parties agree that approval of this Agreement is in the public interest. The Parties further agree that they will support this Agreement and will not request or support any order, relief, outcome, or result in conflict with the terms of this Agreement in any administrative or judicial proceeding relating to, reviewing, or challenging the establishment, approval, adoption, or implementation of this Agreement or the subject matter hereof. No party will assert in any proceeding before the Commission or any court that this Agreement or any of the terms in the Agreement shall have any precedential value, except to enforce the provisions of this Agreement. Approval of this Agreement in its entirety will resolve all matters and issues in Docket No. 20190166-WU pursuant to, and in accordance with, Section 120.57(4), Florida Statutes. No party shall seek appellate review of any order issued in this Docket, as it relates to the enforceability of this Agreement.
9. This Agreement is dated as of the date the last signature is affixed. It may be executed in counterpart originals, and a scanned .pdf copy of an original signature shall be deemed an original.

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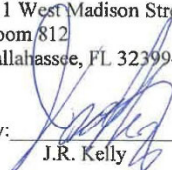
In Witness Whereof, the Parties evidence their acceptance and agreement with the provisions of this Agreement by their signature.

HC Waterworks, Inc.
c/o Troy Rendell
4939 Cross Bayou Blvd.
New Port Richey, FL 34652

By: 

Troy Rendell
(Printed Name)
Title: Vice President / Secretary

Office of Public Counsel
J.R. Kelly, Esq.
The Florida Legislature
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By: 

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