

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for staff-assisted rate case in
Polk County by Pinecrest Utilities, LLC.

DOCKET NO. 20230071-WU
ORDER NO. PSC-2023-0199-PCO-WU
ISSUED: July 17, 2023

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman
ART GRAHAM
GARY F. CLARK
MIKE LA ROSA
GABRIELLA PASSIDOMO

ORDER APPROVING INTERIM RATES

BY THE COMMISSION:

Background

Pinecrest Utilities, LLC (Pinecrest or Utility) is a Class C utility serving approximately 140 water customers in Polk County. The Utility was transferred to the present operator in 2012.¹ Pinecrest's current rates and charges were approved in its last limited alternative rate increase in 2020.²

According to the Utility's 2022 Annual Report, total gross revenue was \$59,184, and total operating expense was \$82,431, of which, \$69,472 were operation and maintenance (O&M) expenses.

On May 26, 2023, the Utility filed an application for a staff-assisted rate case.³ A test year ended December 31, 2022, has been established for purposes of interim and final rates.

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

¹Order No. PSC-2012-0475-PAA-WU, issued on September 18, 2012, in Docket No. 20110311-WU, *In re: Application for transfer of Certificate No. 588-W from Pinecrest Ranches, Inc., in Polk County, to Pinecrest Utilities, LLC.*

²Order No. PSC-2020-0396-PAA-WS, issued on October 22, 2020, in Docket No. 20200152-WS, *In re: Application for a limited alternative rate increase proceeding in Polk and Marion Counties, by Alturas Water, LLC, Sunrise Water, LLC, Pinecrest Utilities, LLC, and East Marion Utilities, LLC.*

³Document No. 03388-2023, filed on May 26, 2023.

Decision and Analysis

I. Interim Rate Increase for Pinecrest is Approved

	Test Year Revenues	\$ Increase	Revenue Requirement	% Increase
Water	\$59,184	\$10,772	\$69,957	18.20%

On May 26, 2023, Pinecrest filed an application requesting an interim rate increase. 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 O&M expenses in relation to its revenues. Based on the Utility's filing, we find that Pinecrest has demonstrated a *prima facie* entitlement to an interim rate increase in accordance with Section 367.0814(4), F.S.

A. Revenue Increase

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 2022 Annual Report for the test year ended December 31, 2022. The test year revenues are \$59,184, which is comprised of \$57,145 from water service rates and \$2,040 from miscellaneous service revenues. The test year O&M expenses are \$69,472. The difference between the Utility's reported revenues and O&M expenses is \$10,288.

In addition, the interim water 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 additional funds to cover increased RAFs.⁴ The RAFs associated with the interim increase are \$485.

⁴Order No. PSC-2001-1654-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.*

In total, Pinecrest shall be allowed an interim revenue increase of \$10,772 (\$10,288 + \$485) to produce revenues sufficient to cover O&M expenses and additional RAFs. Thus, we find the appropriate interim revenue requirement shall be \$69,957. This represents an 18.20 percent increase above the Utility’s test year revenues. Table 1 shows our interim revenue increase calculation.

**Table 0
Interim Increase Calculation**

Utility Test Year O&M Expenses	\$69,472
Less: Utility Test Year Revenues	<u>59,184</u>
Revenues to Cover O&M Expenses	<u>\$10,288</u>
RAFs on Interim Rate Increase	<u>485</u>
Total Interim Revenue Increase (\$)	<u>\$10,772</u>
Total Interim Revenue Increase (%)	18.20%

Source: Utility’s 2022 Annual Report and staff’s calculations.

II. Appropriate Interim Water Rates for Pinecrest

We find that interim service rates for Pinecrest be designed to allow the Utility the opportunity to generate annual operating revenues of \$69,957 for water. Before removal of miscellaneous revenues, this would result in an increase of \$10,772 (18.20 percent). To determine the appropriate increase to apply to the service rates, miscellaneous revenues shall be removed from the test year revenues. The calculation is as follows:

**Table 2
Percentage Service Rate Increase**

	<u>Water</u>
1 Total Test Year Revenues	\$59,185
2 Less: Miscellaneous Revenues	<u>\$2,040</u>
3 Test Year Revenues from Service Rates	\$57,145
4 Revenue Increase	<u>\$10,772</u>
5 Percentage Service Rate Increase (Line 4/Line 3)	18.85

Source: Staff’s Interim Recommended Revenue Requirement.

We find that the interim rate increase of 18.85 percent shall be applied as an across-the-board increase to the water service rates. 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, we have 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 within 10 days of the date of the notice.

III. Appropriate Security to Guarantee the Interim 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 this Commission. As addressed in Section I, the interim increase for water is \$10,772. 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 \$7,424. This amount is based on an estimated eight months of revenue being collected under the approved interim rates shown on Schedule No. 1.

The criteria for a corporate undertaking include sufficient liquidity, ownership equity, profitability, and interest coverage to guarantee any potential refund. We reviewed Pinecrest's financial condition. Because the Utility has no meaningful liquidity, negative interest coverage, has reported significant net losses year over year, and has negative ownership equity, we find that the Utility does not have the financial capability to support a corporate undertaking in the amount requested at this time. Instead, we find that the Utility 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 \$7,424. 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 this 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 Pinecrest Utilities, LLC shall be authorized to increase its rates on an interim basis by \$10,772. It is further

ORDERED that the interim rate increase of 18.85 percent shall be applied as an across-the-board increase to the water service rates. 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), Florida Administrative Code (F.A.C.). It is further

ORDERED that Pinecrest 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. It is further

ORDERED that Pinecrest 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 Pinecrest 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, Pinecrest Utilities, LLC shall deposit \$928 into the escrow account each month. Otherwise, the surety bond or letter of credit shall be in the amount of \$7,424. Pursuant to Rule 25-30.360(6), F.A.C., Pinecrest Utilities, LLC shall provide a report by the 20th of each month indicating the monthly and total revenue collected subject to refund. If a refund is required, the refund shall be with interest and in accordance with Rule 25-30.360, F.A.C. It is further

ORDERED that in the event this Order becomes final, this docket shall remain open to address the merits of Pinecrest Utilities, LLC's staff-assisted rate case.

By ORDER of the Florida Public Service Commission this 17th day of July, 2023.



ADAM J. TETZMAN
Commission Clerk
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.

PINECREST UTILITIES, LLC TEST YEAR ENDED 12/31/2022 MONTHLY WATER RATES	SCHEDULE NO. 1 DOCKET NO. 20230071-WU	
	UTILITY'S EXISTING RATES	COMMISSION APPROVED RATES
Residential and General Service		
Base Facility Charge by Meter Size		
5/8" x 3/4"	\$19.63	\$23.33
3/4"	\$29.45	\$35.00
1"	\$49.08	\$58.33
1-1/2"	\$98.15	\$116.65
2"	\$157.04	\$186.64
3"	\$314.08	\$373.28
4"	\$490.75	\$583.25
6"	\$981.50	\$1,166.50
Charge per 1,000 gallons – Residential and General Service	\$5.91	\$7.02
Typical Residential 5/8" x 3/4" Meter Bill Comparison		
3,000 Gallons	\$37.36	\$44.39
5,000 Gallons	\$49.18	\$58.43
10,000 Gallons	\$78.73	\$93.53