

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application of KEY HAVEN)	DOCKET NO. 880537-SU
UTILITY CORPORATION for a staff-)	ORDER NO. 21100
assisted rate case in Monroe)	ISSUED: 4-24-89
County.)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD
JOHN T. HERNDON

FINAL ORDER APPROVING STIPULATION
OF SETTLEMENT, SERVICE AVAILABILITY CHARGES,
MISCELLANEOUS SERVICE CHARGES, CLOSING ESCROW ACCOUNT
AND CLOSING DOCKET

BY THE COMMISSION:

On April 5, 1988, Key Haven Utility Corporation (Key Haven or the utility) filed a request for a staff-assisted rate case. Its request for staff assistance was approved and this docket was established. Unresolved matters related to required plant improvements and an escrow account for service availability charges, which were separately docketed, were also addressed within this staff-assisted rate case docket.

The utility's wastewater treatment plant and service area are located on Key Haven, which is north of Key West. At December 31, 1987, the utility was providing wastewater treatment to 335 residential customers. The utility first became subject to the jurisdiction of this Commission in 1974, when the Monroe County Board of County Commissioners adopted a resolution transferring jurisdiction over investor-owned water and wastewater utilities to this Commission. On June 19, 1984, the Board of County Commissioners adopted a resolution which briefly returned such jurisdiction to Monroe County. On July 27, 1984, the Board of County Commissioners adopted another resolution, which rescinded the June 1984 resolution, thus restoring our jurisdiction.

Until recently, the utility's wastewater treatment plant was in substandard condition and the collection system had significantly deteriorated. The deterioration of the collection system, along with major problems caused by the initial installation of the first sections of the collection system, was allowing excessive salt water intrusion, resulting in ineffective treatment by and further deterioration of the already substandard plant. In recent months, substantial work has been performed to bring the collection system, treatment plant, and method of disposal up to required standards. During 1987, 1988, and the early part of 1989, approximately \$480,000 was expended on capital improvements ordered by the Department of Environmental Regulation and this Commission.

In determining the appropriate rates for this utility, in this staff-assisted rate case proceeding, we have used a

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partially projected test year to encompass the required capital improvements and related financing, as well as certain other projections. We issued our proposed agency action Order No. 20247 on November 2, 1988. As final agency action, Order No. 20247 also granted increased sewer rates of \$33.14 per month, to go into effect as temporary rates if a valid protest was submitted by a substantially affected party other than the utility. In that Order, we proposed increased final rates of \$33.14 per month, an increase in service availability charges from \$1,000 to \$1,200 per equivalent residential connection, the establishment of the standard miscellaneous service charges, the authorization for the utility to close the service availability charge escrow account, and an extension of time for the utility to complete its system rehabilitation. This Order also required ninety percent completion of the rehabilitation prior to implementation of the increased rates, as temporary or final rates.

On November 23, 1988, the Office of Public Counsel timely filed a Notice of Intervention and a Petition on Proposed Agency Action and Request for Hearing. In late December, 1988, we confirmed ninety percent completion of the rehabilitation. As a result, the \$33.14 monthly charge went into effect January 1, 1989, as a temporary rate, subject to refund.

We scheduled a hearing for March 15 and 16, 1989, in Key West. By Order No. 20422, issued on December 6, 1988, the prehearing officer established dates for all preliminary activities in this proceeding. The utility, Public Counsel, and our Staff filed testimony, exhibits and prehearing statements, and a prehearing conference was held on February 20, 1989. At the prehearing conference, Public Counsel stated that it was ninety-five to ninety-nine percent certain that there would be a stipulation.

Negotiations resumed and on March 14, 1989, we received the final Stipulation of Settlement executed by Key Haven Utility Corporation, the Office of Public Counsel, and the Key Haven Civic Association, Inc. Subsequently, it was determined that the stipulation did not address increased service availability charges or the initiation of miscellaneous service charges. Additional correspondence along with verbal assurances of all of the parties has convinced us that agreement has also been reached on these two charges.

As stated in the Stipulation of Settlement and subsequent correspondence, the agreements were "entered into in a spirit of compromise and in an effort to obviate the additional expense associated with further litigation." The parties agreed that:

1. The monthly charge will be \$30 per residence.
2. The difference between the \$33.14 and the \$30 collected since January 1, 1989, will be refunded without interest by credit on the first monthly billing after the execution of the Stipulation of Settlement by all parties.

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3. Key Haven Utility Corporation will not raise its rates over the \$30 per month per residence agreed to herein prior to December 31, 1989.
4. The midpoint of Key Haven Utility Corporation's return on equity is 14.35%, but this provision is not a guarantee of the stated rate of return on equity and therefore does not release the utility from its obligation to provide service meeting the standards of quality defined in Section 367.111(2), Florida Statutes.
5. Key Haven Utility Corporation will provide a copy of its annual report to Key Haven Civic Association simultaneously with its filing of the report with the Commission.
6. Key Haven Utility Corporation will establish a separate cash account for connection fees and service availability charges, to be accounted for as customer contributions in aid of construction and utilized to offset the acquisition, improvement or construction costs of the utility property, facilities or equipment used to provide utility services. Once a year, Key Haven will provide an accounting of these funds to the President of the Key Haven Civic Association, beginning with receipts from January 1, 1989. (We believe this implicitly indicates agreement to close the escrow account previously established pursuant to Order No. 15545 issued January 13, 1986, for service availability charges. The service availability charges deposited in this escrow account were to be used for plant expansion and maintenance.)
7. Key Haven Utility Corporation will make a good faith effort to landscape the sewage treatment plant site as funds become available through service availability charges.
8. Service availability charges will be increased from \$1,000 to \$1,200 for each new residential connection and \$2.86 per gallon per day for all others. The \$2.86 is based on estimated flows of 260 gallons per day per equivalent residential connection (ERC).
9. Miscellaneous service charges are:

Initial Connection	\$15.00
Normal Reconnection	\$15.00
Violation Reconnection	Actual Cost
Premises Visit (in lieu of disconnection)	\$10.00

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Definitions of the specific miscellaneous service charges are as follows:

Initial Connection: This charge is to be levied for service initiation at a location where service did not exist previously.

Normal Reconnection: This charge is to be levied for transfer of service to a new customer account at a previously-serviced location, or reconnection of service subsequent to a customer-requested disconnection.

Violation Reconnection: This charge is to be levied prior to reconnection of service for cause according to Rule 25-30.320(2), Florida Administrative Code, including a delinquency in bill payment. Actual cost is limited to direct labor and equipment rental.

Premises Visit Charge (in Lieu of Disconnection): This charge is to be levied when a service representative visits a premises for the purpose of discontinuing service for nonpayment of a due and collectible bill and does not discontinue service because the customer pays the service representative or otherwise makes satisfactory arrangements to pay the bill.

We believe that the agreements, as outlined above, are fair and reasonable and in the public interest, in that they avoid the expenditure of additional legal fees and will not impair the utility's ability to provide safe, efficient and sufficient service. For this reason, we find it appropriate to approve the settlement and the subsequent written and verbal agreements regarding the service availability charges, the miscellaneous service charges, and the closing of the escrow account.

The utility has filed revised tariff sheets and a customer notice for our approval. The utility has assured us that it has credited each bill with the required refund, and contact with Key Haven Civic Association has confirmed this. We have also confirmed that rehabilitation of the collection system, treatment plant and disposal system is substantially complete. No further activity is required and, therefore, we hereby close this docket.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that the Stipulation of Settlement entered into by Key Haven Utility Corporation, the Office of Public Counsel and Key Haven Civic Association, Inc., is hereby approved as set forth in the body of this Order. It is further

ORDERED that the further agreement between Key Haven Utility Corporation, the Office of Public Counsel and Key Haven Civic Association, Inc., regarding increased service availability charges of \$1,200 per equivalent residential connection and the establishment of miscellaneous service charges, as set forth in the body of this Order, is hereby approved. It is further

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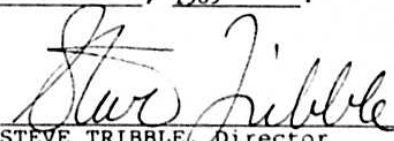
ORDERED that the service availability charges approved herein shall be effective for connections made on or after April 4, 1989, the date of our decision, subject to our approval of the revised tariff sheets. It is further

ORDERED that the miscellaneous service charges approved herein shall be effective for service rendered on or after April 4, 1989, the date of our decision, subject to our approval of the revised tariff sheets. It is further

ORDERED that Key Haven Utility Corporation is hereby authorized to close the service availability escrow account as set forth in the body of this Order. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 24th day of APRIL, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), 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 Director, Division of Records and Reporting 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 or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting 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.