

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

|  |   |                      |
|--|---|----------------------|
| In re: Petition of DELTONA UTILITIES,  | ) | DOCKET NO. 890272-WS |
| a division of DELTONA UTILITIES, INC., | ) |                      |
| for limited proceedings regarding      | ) | ORDER NO. 21449      |
| capital improvements for its utility   | ) |                      |
| plant serving customers in Volusia     | ) | ISSUED: 6-26-89      |
| County.                                | ) |                      |

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, CHAIRMAN  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTION

ORDER GRANTING REQUEST TO CONCEPTUALLY TREAT  
 AS RATE BASE COMPONENT IMPROVEMENTS NECESSARY TO TRANSPORT  
 EFFLUENT TO DELTONA HILLS GOLF AND COUNTRY CLUB

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.

BACKGROUND

Deltona Utilities, Inc. (Deltona or the utility), provides service to approximately 18,000 water customers and 6,000 wastewater customers in Deltona, Florida. The utility's last rate case was processed in Docket No. 830281-WS. Order No. 14343, issued on May 3, 1985, approved a Stipulation as to water and wastewater revenues. The utility's current service availability charges were approved by Order No. 14217, issued on March 22, 1985.

On December 23, 1983, Deltona submitted an application to the St. Johns River District of the Department of Environmental Regulation (DER) for renewal of its wastewater operation permit. Subsequently, DER notified Deltona of its intent to deny the application based on the utility's failure to include in the application a proposal to eliminate its effluent discharge into Lake Monroe. Ultimately, a Consent Order was entered into between DER and Deltona. This Consent Order required that the utility cease discharge to Lake Monroe by November 1, 1988. The Order also allows for an extension of up to two years of the 1988 deadline. As a result, the deadline has since been extended to November 1, 1989.

On October 23, 1986, Deltona submitted an application to the St. Johns River Water Management District (WMD) for

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consumptive use permits for two new wells to be drilled within the utility's service area. The WMD issued a Letter of Intent to Grant the requested consumptive use permits on July 22, 1987, but required as a condition of issuance that the utility dispose of effluent at a golf course in the area. Deltona then filed a petition for an administrative hearing with the Division of Administrative Hearings (DOAH Case No. 87-3613). The administrative hearing is now in abeyance, by order of the hearing officer, until this Commission makes its decision on the utility's petition in this docket.

As a result of the DER Consent Order, the DOAH hearing, and the conditional WMD consumptive use permits, Deltona has investigated several alternative effluent disposal methods which would eliminate outfall to Lake Monroe. Two options are now being considered. Percolation ponds would be the most economically feasible option at a cost of approximately \$1,035,000. The other proposal is for a wastewater disposal facility to treat the effluent to DER standards for disposal by spray irrigation. The cost of the additional filters, pumps, and transmission main to the Deltona Hills Golf and Country Club is estimated to be approximately \$1,823,750.

Although disposal by means of percolation ponds satisfied DER requirements, both DER and the WMD have expressed support for disposal by means of spray irrigation to this golf course. In fact, the WMD has placed a condition on the consumptive use permits for Deltona's water system which requires that the utility dispose of its effluent for reuse at a golf course in the Deltona Community. DER and the WMD have stressed the benefits of disposal to the golf course and the geological characteristics of the Deltona area which make spray irrigation an optimal disposal method.

#### UTILITY'S PETITION FOR LIMITED PROCEEDING

On February 21, 1989, Deltona Utilities filed a petition with this Commission for a limited proceeding requesting that we make a finding on two issues: 1) whether its proposed investment in wastewater disposal facilities necessary to transport effluent meeting DER standards to the Deltona Hills Golf and Country Club will be treated as a rate base component in the utility's next rate case, and 2) if accepted as a rate base component, whether the cost of the improvement may be allocated to the water and wastewater rate bases equally. Deltona's petition contains letters from both DER and WMD officials in which the agencies have "expressed support for the utility constructing wastewater disposal facilities necessary to transport effluent meeting DER standards to the golf course."

On April 11, 1989, we held a customer meeting in the utility's service area to take testimony and receive comments from the utility's customers regarding their feelings on the utility's petition, the quality of service being provided, and any other topic they wished to address. Over one hundred customers attended the meeting and seventeen offered testimony. Representatives from DER, the WMD, and the utility made presentations. Each representative strongly affirmed that Deltona water customers would benefit from the disposal of the

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utility's effluent to the golf course. Mr. Jim Frazee, of the WMD, explained that Volusia County was a geologically sensitive area which consisted of an island of fresh water surrounded by salt water, high sulfites, and water quality deterioration due to faulting. Mr. Frazee went on to explain that the only way to resolve the sensitivities associated with the Deltona area was to attempt to move as much water as possible back into the aquifer system in a proper location. The WMD is working to resolve these sensitivities by putting severe conditions on the utility's consumptive use permits, which would eventually lead to the elimination of wells at the golf course, thereby reducing withdrawal from the Floridan aquifer.

Mr. Carlos DeAguilar of DER stated that his agency does not normally require a utility to use a particular location for disposing of its effluent. However, in this particular instance, DER is trying to achieve the goal of protecting the long-term availability of the public water supply in this whole area. Therefore, according to Mr. DeAguilar, DER would like to see the effluent generated from Deltona's wastewater treatment plant being applied to the Deltona Hills golf course.

The majority of the customers testified that water customers should not have to pay any portion of costs related to sewer improvements. Several customers stated that they would like effluent disposal lines to run parallel to the water distribution system so that each customer could receive effluent for irrigation and other non-potable purposes. Others mentioned that the "rich" golf course should pay for the effluent. Finally, the remainder of customers testifying had questions and/or comments regarding water quality, septic tanks, utility operations and rates, and water/wastewater odor.

Other water management districts in Florida are currently developing reuse rules requiring the use of reclaimed water (effluent) in a similar manner to that being imposed by the St. Johns River Water Management District in this case. DER is currently developing rules to set standards for the quality of reclaimed water when it is reused in the manner suggested by the AD.

Ideally, the basis for the utility's choice of disposal methods should be the one which is the best environmentally. Clearly, recharging the aquifer beneath the golf course is critical to the long-run water quality for the thousands of residents in that area. Disposal along the Deltona ridge (the area of the golf course) will resolve some of the geological sensitivities of the region, whereas disposal to the proposed percolation pond area will be of little benefit to the Floridan aquifer because of its location. This situation has taken years to develop and it will take many more years to resolve.

As the economic regulator of this utility, we find it very appropriate to provide an economic incentive for the utility to choose the method strongly recommended by the two state agencies charged with overseeing the state's environmental well being. We find that, based on the benefits of the proposed spray irrigation system and the support that both DER and the WMD have expressed for the system, it is appropriate for the utility to dispose of effluent to the Deltona Hills Golf and Country Club

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by means of spray irrigation. Therefore, we find it appropriate to conceptually treat as a rate base component the utility's investment in wastewater disposal facilities to transport effluent meeting DER standards to the Deltona Hills Golf and Country Club under the specific circumstances proposed. Although this method of disposal will cost more than disposal by means of percolation ponds, we believe that the benefits to be realized by residents in that area in the long run make the spray irrigation system a reasonable option on Deltona's part. The utility did not request a rate increase and we find that the utility's next rate case will be the most appropriate time to consider the revenue impact of this decision.

Deltona proposes that, based on benefits realized by water customers (including aquifer recharge, decreasing chlorides, and improved water quality), the cost of disposal to the golf course should be allocated equally between the utility's water rate base and sewer rate base. Although it may be that Deltona's water customers will benefit from the reuse at the golf course, we do not find it appropriate to consider any plan of allocation of the cost of the capital improvement between the utility's water and sewer rate bases at this time.

#### DECISION LIMITED TO SPECIFIC CIRCUMSTANCES PROPOSED

Subsequent to the customer meeting, we received a letter from the attorney for the Deltona Hills Golf and Country Club (Club) indicating that, contrary to statements made by the utility, "the Club has had no contact from Deltona Utilities, formal or informal, which suggests that Deltona Utilities is interested in contracting with the Club for disposal of treated effluent." The letter also states that other utility systems have expressed an interest in making use of the golf course for effluent disposal and that "the Club has not determined whether to negotiate with any of the interested utilities." The utility has subsequently communicated with our Staff, stating that informal contact has been made with golf course representatives. Specifically, at a December 15, 1988, meeting, members of the utility and the golf course's Board of Directors discussed Deltona's proposal for effluent disposal.

The apparent lack of communication and agreement between the golf course and the utility emphasizes the most significant aspect of the utility's petition, that is, the fact that Deltona's proposal is purely hypothetical. We have been asked to make a decision regarding a "what if" situation. The utility's proposed construction plan and costs related to the plan are based upon a conceptual design. This design contains specific assumptions such as this golf course's acceptance of Deltona's effluent. The only sure thing regarding this petition is the action taken by DER and the WMD. Representatives from both of these agencies have strongly supported the utility's proposed effluent disposal system. In fact, as previously stated, the consumptive use permit issued by the WMD for Deltona limits the utility's source of supply if treated effluent is not disposed of by means of spray irrigation at the golf course.

If any of the circumstances involving the utility's proposal changes, such as the golf course not accepting treated

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effluent from Deltona, our decision on this issue has no effect. In that event, new evidence will need to be submitted for further analysis and our approval before any decision impacting the utility's water or sewer rate bases will be made. The question of whether the golf course should pay for effluent will also be an issue in the utility's next rate case.

If a protest is not received within 21 days of issuance of this proposed agency action Order, it will become final and the docket may be closed.

It is, therefore,

ORDERED by the Florida Public Service Commission that the request of Deltona Utilities, a division of Deltona Utilities, Inc., for a limited proceeding is granted to the extent set forth in the body of this Order. It is further

ORDERED that the request for an allocation of the rate base improvements equally over the water and sewer customers is hereby denied. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final unless an appropriate petition in the form provided by Rule 25-22.036, Florida Administrative Code, is received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on July 17, 1989. It is further

ORDERED that, after July 17, 1989, this Commission shall issue either a notice of further proceedings or an order acknowledging that the provisions of this Order have become final. It is further

ORDERED that, in the event no protest is timely received, this docket shall be closed.

By ORDER of the Florida Public Service Commission,  
 this 26th day of JUNE 1989.

  
 STEVE TRIBBLE, Director  
 Division of Records and Reporting

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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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this Order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on July 17, 1989. In the absence of such a petition, this order shall become effective July 18, 1989, as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this Order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this Order becomes final and effective on July 18, 1989, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by 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 of the effective date 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.